

Fairness, trust and motivation
in Profit Sharing Systems
within German law firms

A qualitative analysis of law firm partner needs in a peer-to-peer context

Thomas WIEGMANN

Submitted for the Degree of
Doctor of Business Administration

Faculty of Management, Law & Social Sciences

University of Bradford

2019

Abstract

Author: Thomas Wiegmann

Title: Fairness, trust and motivation in Profit Sharing Systems
within German law firms

Subtitle: A qualitative analysis of law firm partner needs
in a peer-to-peer context

Keywords: Fairness, Justice, Trust, Motivation, Professional Service Firms,
Law Firms, Germany

In professional partnerships, partners have to agree how to split their income between each other. Such a profit sharing system (PSS) must be perceived as being fair and motivating to ensure the enduring success of the partnership. Surprisingly, quite different systems are in use today in otherwise comparable firms. The understanding of a “fair share” and how to motivate best varies considerably. Existing literature on professional service firms rarely discusses in which circumstances the different PSS types are adequate; non-economic perspectives are scarce.

Using semi-structured interviews with senior partners from large German law firms, this study evaluates their understanding of trust, fairness and motivation, and how that links to their respective PSS's. It adds the otherwise missing peer-to-peer perspective to existing organisational research on fairness, trust and motivation.

The findings include the presence of both extrinsic and intrinsic motivation through money, but also through peer pressure. Different fairness ideals clearly link to PSS types. Mutual trust, based on knowing each other, is key in all but one PSS type. An important, but yet overlooked differentiator between PSS's is whether profit distribution decisions are made based on algorithms or on human (committee) decisions.

A new framework is developed that links the beliefs and values of the partners with the specific characteristics of the PSS, which are systematically assessed for the first time. This framework offers partners from law firms and potentially other professional service firms a methodical approach to identify and discuss their needs and to identify the most appropriate PSS for their specific situation.

Acknowledgements

The author is grateful to Dr Hugh Lee and Dr Ilias Kapsis for supervising this research; to all participants who shared their invaluable experience and thinking (and their time); to the attendees of several peer review workshops for their comments on early versions; and to his family, for love and support and accepting several years of reduced mental and physical presence. Thank you all.

Table of Contents

Abstract	i
Table of Contents.....	iii
List of Figures	vi
List of Tables.....	vii
List of Abbreviations	viii
Chapter 1: Introduction	1
Research aim and objective/questions.....	5
Contributions	5
Thesis outline	6
Chapter 2: Research field and Concepts	8
2.1 Law firms as Professional Service Firms.....	8
Partnerships as prevailing governance structure	9
Profit sharing in partnerships.....	10
2.2 Profit Sharing Systems	10
Types of PSS	10
Purposes of a PSS	12
General advantages and disadvantages of different PSS	14
2.3 Fairness and justice	16
Fairness versus justice	16
Fairness ideals and justice principles	16
Dimensions of justice	17
Overall justice.....	18
2.4 Trust.....	19
Trust and trustworthiness	19
The relationship between fairness and trust.....	21
2.5 Motivation	21
Hierarchy	22
2.6 A new taxonomy for Profit Sharing Systems	23
2.7 Summary	25
Chapter 3: Methodology	27
Research philosophy.....	27
Research methodology	28

3.1 Research design	29
Choice of data collection method	29
Choice of data analysis method	31
3.2 Data collection.....	33
Sampling	33
Access.....	35
Interview setting	36
Interview guide	37
3.3 Data analysis.....	37
Stage 1 and 2: Transcription and familiarisation	38
Stage 3: Coding	38
Stage 4: Searching for themes.....	39
Stage 5 and 6: Reviewing themes; finding relationships, defining and naming themes	39
Stage 7: Finalising analysis while writing	40
The use of software (CAQDAS)	41
Ethical considerations	42
3.4 Summary.....	44
Chapter 4: Findings regarding perceived advantages and disadvantages of PSS-archetypes.....	46
4.1 Pure Lockstep	49
Advantages	49
Downsides.....	50
Contextual preconditions.....	51
Values & Beliefs	53
4.2 Modified Lockstep	56
Advantages	56
Downsides.....	56
Contextual preconditions.....	57
Values & Beliefs	57
4.3 Merit Based	59
Advantages	59
Downsides.....	60
Contextual preconditions.....	62
Values & Beliefs	62
4.4 Eat-what-you-kill.....	64
Advantages	64
Downsides.....	65
Contextual preconditions.....	66
Values & Beliefs	67

4.5 Summary	69
Chapter 5: Findings related to trust, fairness and motivation	71
5.1 Trust	71
5.2 Fairness	77
5.3 Motivation	84
5.4 Summary	89
Chapter 6: Discussion	92
6.1 A framework that integrates partner needs and PSS types	93
6.2 Partner needs – contextual factors Q1: “What environment are we in?”	100
6.3 Partner needs – individual factors Q2: “What do I want?”	104
6.4 Profit sharing systems and their modifications Q3: “What PSS types are available?”	111
6.5 Relevant characteristics of PSS and modifications Q4: “What characteristics do the PSS have?”	118
Evaluation of the characteristics of each PSS subtype	131
6.6 Matching the needs with the characteristics of the PSS Q5: “Which PSS characteristics match best with my needs?” ...	133
6.7 Example: Operationalising the framework	134
6.8 Choosing or changing the PSS Q6: “Which PSS is best suited for us?”	137
6.9 Summary	141
Chapter 7: Conclusion.....	142
7.1 Contribution to theory	144
7.2 Contribution to practice	144
7.3 Limitations	146
7.4 Suggestions for further research	147
References.....	149
Appendix I: Information sheet	161
Appendix II: Consent form	163
Appendix III: Interview guide	164
Appendix IV: Example transcripts	165

List of Figures

Figure 1:	Model of trust, adapted from Mayer et.al. (1995)	20
Figure 2:	Classification of typical PSS by two dimensions	24
Figure 3:	Presumed links between fairness, trust and different profit sharing systems	25
Figure 4:	Example overview of theme, codes and transcript segment .	39
Figure 5:	Example of a coded segment in MAXQDA software	42
Figure 6:	Structural model to discuss PSS archetypes	48
Figure 7:	Summary of Pure Lockstep systems.....	55
Figure 8:	Summary of Modified Lockstep systems.....	58
Figure 9:	Summary of Merit based systems	64
Figure 10:	Summary of Eat-what-you-kill systems	69
Figure 11:	Overview about framework	94
Figure 12:	Examples for partner needs	95
Figure 13:	Examples for classification of PSS types	97
Figure 14:	Complete framework to align law firm partner's needs with PSS characteristics	98
Figure 15:	Framework structure represented by questions	99

List of Tables

Table 1:	Overview about archetypical PSS used in law firms	12
Table 2:	Advantages and disadvantages of different PSS archetypes	15
Table 3:	Different fairness ideals	17
Table 4:	Overview about interviewees	35
Table 5:	Stages of coding and analysis proposed for Thematic Analysis	38
Table 6:	Fairness and performance measuring per PSS type	81
Table 7:	Summary of key findings on trust, fairness and motivation ...	91
Table 8:	Number of top 100 German law firms being specialised	102
Table 9:	Overview of partner needs	111
Table 10:	Number of law firms using each PSS and modification	118
Table 11:	Characteristics to distinguish Profit Sharing Systems	119
Table 12:	Summarising evaluation of relevant PSS types and modifications against important characteristics	132
Table 13:	Fictional example for the evaluation of one partner's needs	136

List of Abbreviations

CAQDAS Computer assisted qualitative data analysis software

GT Grounded theory

IPA Interpretative phenomenological analysis

PBDA Pattern-based discourse analysis

PSF Professional service firm

PSS Profit sharing system

TA Thematic analysis

Chapter 1: Introduction

The aim of this study is to understand the significance of perceived fairness, trust and motivation in a situation where equal partners work together and share their profits, and to develop practical advice for such a situation.

Trust and perceived fairness are generally important factors when people work together, as in organisations many activities require or are facilitated by collaborative work. If people feel they are being treated fairly, cooperation is more likely to occur (Cropanzano and Ambrose 2015a); trust reduces transaction costs and raises the probability that people will behave in a cooperative way by devoting time and attention to collective goals (Kramer 1999).

For this reason, a lot of research exists on justice in the workplace (Cropanzano and Ambrose (2015b) provide a good overview), as well as on trust in an organisational context (e.g. Rousseau et al. 1998; Kramer 1999), and also on the connections between the two (Colquitt and Rodell 2011). Most of the research in these areas focusses on *hierarchic* situations, i.e. employer-employee or manager-subordinate roles. Taking this perspective is understandable, as most organisations were, and still are, organised hierarchically.

Research in non-hierarchic environments is needed

Two developments however call for more attention to be paid to *non-hierarchical* situations: First, many workplaces are changing. Work that requires collaboration is becoming more and more important in contemporary knowledge-intensive societies (Brock et al. 2014). Thus new forms of collaboration emerge, and more people work in non-hierarchical (or less hierarchic) set-ups. It is therefore of practical importance to advance the general understanding of non-hierarchical situations.

Second, existing theoretical concepts might be biased by a prevalent hierarchical research setting. For example, justice research typically distinguishes between procedural, distributive and interactional justice (Li and Cropanzano 2009). Distributive as well as procedural justice is most often associated with reward allocation, which (in a hierarchic structure) is usually *unidirectional*: the individual superior makes a decision and the subordinate then evaluates the

decision as more or less fair. Both the outcome one receives, and the process leading to the outcome, is defined externally, and seldom open for negotiation. The person judging the level of justice, the subordinate, is typically passive. If the subordinate is able to influence something, this happens at the level of the *outcome*, e.g. through a performance-related pay component. Thus there is some influence on the distributive level, but none on the procedural level.¹ This passivity is also inherent in the questionnaire items developed by Colquitt (2001), which are frequently used to measure procedural justice (e.g. Ambrose and Schminke 2009; Zapata-Phelan et al. 2009; German et al. 2016).

In a professional, non-hierarchic situation between peers however, the situation is different. Procedures as well as outcomes are subject to negotiation, and they likely interact. The discussion about the rules of how to allocate rewards will be influenced by the expectation of the outcome; especially when (as in this study) the persons discussing the rules are the same people who will eventually receive money based on the rules they are discussing. In addition, the involved persons are active, not passive: They can influence and potentially change the procedures. So, the differentiation between procedural and distributive justice which is based on hierarchical situations is less suited to the context of this study.

Law firm partnerships as an important example for a peer situation

Law firm partnerships are an example for organisations where reward allocations are made in a professional and non-hierarchical setting. The great majority of law firms in Europe are organised as partnerships² (Legalease 2019), which means that the firm is owned by some or all of the lawyers working there, and the profit is shared between them.

¹ Experimental research on justice often replicates this structure: the subjects are able to influence the distributive level (the outcomes), but cannot choose or change the underlying procedures (e.g. Cappelen et al., 2010; Gantner and Kerschbamer, 2016; Karlan, 2005; Rodriguez-Lara and Moreno-Garrido, 2012)

² In many countries a specific legal form for partnerships is used that reduces individual liability, comparable to the LLC for commercial companies: e.g. a Limited Liability Partnership (LLP) in the UK, PartmbB in Germany, AARPI in France, S.L.P. in Spain

Research motivation

The author's interest in this specific peer-to-peer situation has developed over many years of work with German commercial law firms, where he helps to establish financial reporting systems that are used (among other purposes) when deciding how to share the profit between the partners. During long discussions how to best measure 'effort' or 'contribution' in a 'fair way', it became evident that questions of the perception of fairness, the trust level between the partners and the way they themselves use motivation through profit distribution were always of fundamental importance, even though often not openly discussed. Sometimes a discussion took place between the partners about formulas and calculation rules, but for the author in his role as informed outside consultant it was obvious that fundamental differences in individual value judgements were the real area of dissent. When working with two different law firms, it was striking that these two partnerships, of comparable size and similar type of work and clients, chose two very different ways of profit sharing: One decided to lump the proceeds together and split them almost equally; the other implemented complex calculation rules, factoring in every single hour worked and pricing even internal help between colleagues. Both firms were successful, and both said they could not imagine a better system than their own. This raised important questions as to which was 'best' and why.

Law firm partnerships are not only a good object of research for a peer-to-peer based sharing situation, they themselves are also an important economic factor. The legal activities sector³ employs 1.6 million people in Europe (0.3m in Germany) and generates a turnover of 150 billion Euro (26b in Germany) (Eurostat 2019). Together with management consultancies, accounting firms and architects, which are summarised as Professional Service Firms (PSFs), the turnover adds up to 889b Euro and 6m people employed⁴. The influence of PSFs on the economy and societies extends far beyond these numbers, as they play important roles when creating new business models, reshaping governmental institutions, influence legislation and help diffuse new business

³ Based on Eurostat NACE category M691, latest available figures for year 2016

⁴ NACE categories M69 + M702 + M711

structures and practices (Empson et al. 2015b). It is therefore of general interest how the leaders of those firms, the partners, make economic decisions in their very own domain.

Existing research focusses on economic perspectives

Systematic research on ‘the professions’ started in the 1930s in the USA (Abbott 2015). In the 1970s and 1980s, the increasing importance of *salaried* professional work in the US and the related role conflicts led to the concept of ‘professional bureaucracies’ (Mintzberg 1979). Abbott (1988) then shifted the focus to Europe, and in the 1990s, the body of academic literature on Professional Service Firms began to grow (for a good overview see Empson et al. (2015a)). Some of this research looks at trust and fairness in this context (e.g. Kay and Hagan 2003; Nikolova et al. 2015) and on motivational issues (Gilson and Mnookin 1985; Greenwood et al. 2007). However, most of the literature that looks at profit sharing systems (PSSs) concentrates on economic aspects, and Morris and Pinnington’s case that “existing accounts present an over-rational model of change in which too much emphasis has been placed on the importance of individual incentives to achieve performance” (1998: 23) is still valid. Levin and Tadelis (2005: 164) concede that their quantitative modelling of profit sharing in professional partnerships presupposes that “all partners have the same objective” and suggest that “once one moves away from strict equal sharing the structure of decision rights and how partnerships are governed becomes an important topic for future research”. Greenwood et al. also call for research: “We also need to know how the various incentive systems within these firms affect partners’ behaviours” (2017: 118). So there is little literature on exactly *how and why* partners opt for a specific system, a gap that this study intends to narrow.

The results of this study are also of significant practical relevance. Professional surveys show that every third law firm partner in Germany (Schoen 2016) and over 40% of partners in the UK (Viney 2013) are unhappy with their existing PSS and see a need for change. Beside statistical information about the used PSS, there is however little advice available, how exactly partners should proceed when looking for a better-suited system.

Research aim and objective/ questions

The two-fold aim of this study is:

- a) to understand the influences and interactions of interpersonal perceptions with economic aspects of profit sharing systems from the perspective of law firm partners and
- b) to use these findings to develop a framework that helps partners in any partnership to choose the most appropriate profit sharing system for their specific situation.

The research questions derived from this overall aim are:

What understanding of trust, fairness and motivation do law firm partners have?

How does this understanding link to their specific profit sharing system?

Which profit sharing systems suit best to specific given structures of law firms and the individual interests of their partners?

Research philosophy & methodology

The research philosophy of this thesis is rooted in (American) pragmatism, according to which truth should be defined in terms of practical usefulness (Greetham 2006): "Truth is, what works" (Robson 2002: 43). Qualitative research is best suited to exploring and understanding what individuals ascribe to a specific situation (Creswell 2013b). Individual, semi-structured interviews of senior law firm partners are therefore used as the data collection method. Transcribed interviews are analysed using Thematic Analysis, following the protocol of Braun and Clarke (2014), technically assisted by MAXQDA software (MAXQDA 2018).

Contributions

This thesis contributes to different bodies of literature: First, that of trust, fairness and motivation, where it adds the perspective of a peer-to-peer relationship; second, that of profit sharing systems of Professional Service Firms, where it adds important non-economic perspectives.

At the same time, the research helps to resolve the practical problem of choosing the right PSS for law firm partners by identifying specific contingency factors and linking them to the properties of the PSS, which are currently overlooked. This is consistent with the concept of usefulness in pragmatism, the epistemological position of the author: it provides new choices about how to act (Metcalf 2008: 1096). By using a practice perspective, theoretical knowledge is used and adapted to the needs of a given situation (Jarzabkowski et al. 2010).

Thesis outline

This thesis is structured as follows:

In chapter 2, the research field of law firms as an important example of professional service firms will be described in more detail. Type, purpose and general advantages and disadvantages of PSS that are in use in these firms are compared based on the academic and professional literature. Literature on fairness, trust and motivation that is relevant in this context is used to develop a new taxonomy of profit sharing systems that allows better differentiation. It is argued why additional exploratory research⁵ is needed.

Chapter 3 describes the methodological approach of this study. The selection of semi-structured interviews as data collection method together with thematic analysis is justified, and the processes used are described in detail.

In chapter 4, the findings regarding perceived advantages and disadvantages of PSS are presented, based on appropriate quotes from the interviewees. For each major type of PSS, a visual summary of preconditions and consequences of this PSS is shown.

Chapter 5 concentrates on the findings on fairness, trust and motivation from the perspective of a law firm partner. Again using quotes from participants, the beliefs and values that were found to be relevant in the context of profit sharing systems are presented.

⁵ Definition on p. 29

The discussion chapter (6) then draws on the preceding findings chapters and the literature introduced in chapter 2. An integrating framework is presented that combines the needs of the partners (based on contextual factors and individual needs) with the characteristics of the available PSS.

In chapter 7, it is argued why this framework helps to close some academic gaps, and at the same time provides a useful, practical tool for law firm partners who intend to improve their existing PSS or build a new one. Some thoughts regarding the limitations of this study follow, and suggestions for further research are made.

Chapter 2: Research field and Concepts

In this literature review chapter, the research field and the constructs and concepts used in this thesis are introduced, starting with the business area of Professional Service Firms, to which law firms belong. Several existing profit sharing systems are explained and their general advantages and disadvantages are discussed based on the respective literature.

Afterwards, the following sub-chapter summarises the concepts of fairness ideals and justice principles in an organisational context. The research on trust following the psychological tradition is explained, and the related concepts of trustors, trustees, trustworthiness and vulnerability are discussed. Literature on extrinsic and intrinsic motivation is introduced, and the relationships between fairness, trust and motivation are discussed.

Using these theories on justice, trust and motivation, a new taxonomy for general types of PSS is established. This taxonomy introduces two dimensions to classify PSS: the mode of decision-making and the scope of responsibility.

The discussion shows that although literature as well as a pilot study indicates a link between the theories and the PSS dimensions, the exact relationships remain unclear. This calls for further exploratory research.

2.1 Law firms as Professional Service Firms

Law firms are an important part of the Professional Service Firm (PSF) sector, which is “one of the most rapidly growing, profitable and significant sectors of the global economy”, generating global turnover of US\$1.6 trillion and employing more than 14 million people (Empson et al. 2015b: 1). Whereas the exact definition of PSF varies, in the narrowest sense the “classic PSF” is usually defined as an organisation where most members are part of an established profession (Nordenflycht 2010), which includes law firms, consulting firms, accounting firms, and architects. A second core attribute is usually the knowledge-intensity of the business activities. Using a broader definition, also advertising firms, executive search consultancies and engineering companies could be treated as PSFs (Nordenflycht 2010), but it is undisputed that law firms are a core part of PSFs.

A third defining characteristic of PSFs is the type of governance, characterised by “extensive individual autonomy and contingent managerial authority, where core producers own or control core assets” (Empson et al. 2015b: 7). This is an important difference of PSFs compared to many other businesses: The owners of the company also “do the work” – not alone, but a substantial part of it.

Partnerships as prevailing governance structure

Extending Mintzberg’s (1979) concept of ‘professional bureaucracy’ as one out of five structural configurations for organisations, Greenwood et al. (1990) introduced the concept of the Professional Partnership (“P²-form”) as an own organisational archetype. They focus on the professional basis of the work undertaken and the ownership structure being a partnership (Greenwood et al. 2017). Nordenflycht (2010) warns that the terms Professional Service Firm and Professional Partnership are now frequently conflated. PSFs *might* be organised as partnerships, and law and accounting firms predominantly are, but there are other organisational forms. The prevailing form of governance of classic, regulated PSFs however is that of a partnership (Greenwood and Empson 2003), even though in some areas (specifically tax and accounting firms) capital based legal forms like Limited Liability Companies or stock corporations play a significant role. Those are however seldom publicly quoted, but remain under control of their professional workforce (Empson et al. 2015b). Greenwood et al. (2007) showed that partnerships and private corporations outperform public corporations and tied that to increased monitoring of the owners and greater motivation of professionals having ownership stakes.

Brock et al. (2007) discuss other archetypes of professional organisations than professional partnerships like ‘professional firms’. Others say that the professional partnership might become less prevalent due to changes in the environment of PSFs, e.g. increased internationalisation or raising importance of information technology (Smets et al. 2017b), but at least within the classic, reg-

ulated sector of law, a partnership is still by far the most common organisational form. In Germany for example 87 of the 100 largest law firms (by revenue) are partnerships (JUVE 2017).

Profit sharing in partnerships

Other than in a capital-based company, where the profit is typically split by law according to the capital share, the profit sharing in a partnership is flexible. Each partnership has to agree contractually on its own system of partner compensation, partner evaluation and appraisal,⁶ and Levin and Tadelis even call the redistribution of profits among the partners “the defining feature of a partnership” (2005: 131). This is called the Profit Sharing System (PSS). In the last hundred years, different archetypes of PSS were developed. The next section will introduce common types of PSS that are currently in use in the UK, US and continental Europe.

2.2 Profit Sharing Systems

The profit sharing system (PSS) defines how the partners in a partnership are paid; more specifically, as they are not employees with a salary, how they distribute the net income of the partnership between the partners. An example for a simple system is the Equal Share model, where every partner gets the same share of annual profit irrespective of individual performance.

Types of PSS

There is no commonly agreed taxonomy for PSS. Most academic papers focus on just one distinguishing aspect such as whether they measure performance or not and then differentiate only two (Gilson and Mnookin 1985; Faulconbridge and Muzio 2008) or three systems (Morris and Pinnington 1998; Harlacher and Reihlen 2014). In professional journals and consultancy reports, the PSS typically occurs in surveys as one parameter, to be chosen out of a

⁶ Most law firms also *employ* lawyers who receive a salary, with or without profit-linked bonus payments. This research however focusses on partners as owners, often called ‘equity partners’, and how they share the profits among each other.

list of three (Lowe 2014), five (Viney 2013) or seven (Anderson 2001; Wesemann and Kerr 2015) different types. However, not all law firms use any of these types in their pure form. Schoen (2016), who specifically asked for possible combinations, found in his (admittedly unrepresentative) study about German law firms that only 42% of them report to use pure systems, whereas more than half combine two or more archetypes.

The archetypes most often used in the literature and their key concepts are summarised in Table 1 (below). The term archetype is important: Sometimes, two systems seem to be quite similar at first glance, e.g. because they both use a points system to share the profit⁷. The important difference lies in how exactly the points are established. In a *Pure Lockstep* system, a partner gets additional points every year (a *step* on the ladder up), and the points are “locked”, i.e. they cannot decrease. With a *Modified Lockstep*, there might be some defined thresholds or “gates”, and a partnership or committee decision is necessary to move on; some systems also allow cutbacks in specific situations. In a *Merit based* system on the other hand, the points might be recalculated every (or every second) year based on specific metrics or decisions. These differences are very important, as we will see later.

A detailed discussion of these archetypes is presented in chapter 6.4 (p. 111).

⁷ In a points based system, each partner is assigned a number of points. The total annual firm profit is then divided by the total sum of all partner points, which gives a profit value per point. This point value is then multiplied by the individual number of points, resulting in the individual profit share. Thus, a partner with 45 points receives 50% more profit share than a partner with 30 points in any given year.

Profit sharing system <i>alternative names</i>	Key concept	Used by author
Equal share	Collective earnings. Every partner receives the same share.	2,5,6,8
Pure Lockstep	Profit share increases automatically with seniority. Partners with the same tenure typically earn the same.	1,2,3,4,5,6,7,8,10
Modified Lockstep <i>Lockstep with gates</i>	Like Lockstep, but performance assessment at specific points in time: Only “good enough” partners reach the next level. Sometimes regular assessments and downgrading.	6,7,8,9,10
Merit based <i>Hale and Dorr</i> <i>Performance based Formula</i>	Incentive-based. Several measures are weighted, typically turnover (work done), acquisition (selling) power and client care, sometimes cross-referencing and/or management tasks	1,2,5,6,8,9,10
Eat-what-you-kill	Every partner receives what he/she earned individually, minus firm overhead costs. Individual turnover is the only important measure.	3,4,6,9,10
Subjective	Profit is distributed according to individual decisions, e.g. of a remuneration committee, although often based on statistical information	5,8
Corporate	Partners receive a salary, a performance bonus and dividends	8

Table 1: Overview about archetypical PSS used in law firms, as used by different academic and professional authors

Sources: Academic: 1 Gilson and Mnookin (1985), 2 Morris and Pinnington (1998), 3 Faulconbridge and Muzio (2008), 4 Harlacher and Reihlen (2014); Professional: 5 Anderson (2001), 6 Viney (2013), 7 Lowe (2014); Lowe (2016), 8 Wesemann and Kerr (2015), 9 Schoen (2016), 10 JUVE (2017)

Purposes of a PSS

Like every compensation system, the PSS is not only a rule used by accountants to calculate monthly cash transfers, but has severe implications for how the partners work together, how they are motivated, what types of behaviour are encouraged and what not, what management systems are needed and so on (Armstrong 2002). The PSS is therefore one of the key ingredients for the governance of a professional service firm (Harlacher and Reihlen 2014). Professionals have a strong preference for autonomy and discretion (Greenwood and Empson 2003; Smets et al. 2017b). This is typically mirrored in their “*contingent remuneration* systems (...) which directly tie professional remuneration

to organisational performance outcomes, reduce the needs for monitoring and minimize agency costs” (Smets et al. 2017b: 95).

Two characteristics are specifically important: First, the partners must be overall satisfied with their system and their respective profit share; otherwise they would eventually leave the partnership (Gilson and Mnookin 1985; Anderson 2001). This encompasses several aspects: satisfaction with the actual outcome, but also in comparison with their fellow partners, and satisfaction with the process. These aspects are strongly related to fairness and justice perception, and will be discussed in the next section.

Second, every profit sharing system influences the behaviour, as it encourages or discourages specific actions. It is therefore sensible to align the PSS with the strategic and operational goals of the law firm, so that the encouraged behaviour matches the requirements of the law firm as a whole (Gilson and Mnookin 1985; Faulconbridge and Muzio 2009; Viney 2013).

Scholars and consultants agree on several intended outcomes of a PSS. The system should foster collaboration and knowledge sharing within the partnership; it should encourage excellence and entrepreneurial acting and facilitate to provide the best possible service to the clients (McChesney 1982; Gilson and Mnookin 1985; Wesemann and Kerr 2015). From an organisational perspective, successful partners should be encouraged to stay with the firm; from an individual perspective, the system should provide some stability of the income level from year to year.

Gilson and Mnookin (1985) explain these key requirements and differentiate between two basic models of ‘pie division’: Seniority-based and productivity-based sharing. They focus on the *gains of cooperation* by applying portfolio theory, a theory from financial economics to value capital assets, to the human capital in a law firm: Cooperation enables specialisation and diversification, and diversification reduces the level of risk the individual has to bear. The *barriers* are explained using agency theory, which “focuses on how organizations maximize the gains from cooperation by adopting structures which reduce the potential for participants to pursue their individual, rather than their collective, self-interest” (p. 332). Agency costs might occur due to three behaviours that

threaten a firm: *shirking* (not doing ones fair share of work), *grabbing* (taking more profit than is perceived by others as fair) and *leaving* (departing the firm including taking clients and business with them).

General advantages and disadvantages of different PSS

An Equal share system focusses on the cooperation aspect and therefore contains the highest risks of agency costs. In addition, when a law firm increases in size, fairness conflicts between old and new partners arise. Pure Lockstep systems add in the seniority factor, that mitigates the latter and also provide an incentive against the leaving threat. The incentive for cooperation is still very high. Modified Lockstep systems add some means to account for heterogeneous performance.

Merit based systems switch the focus to productivity-based sharing, as well as Eat-what-you-kill systems. Whereas the former do provide some incentives for cooperation, e.g. by rewarding acquisition and internal client referral, the latter do not.

Unfortunately, there is always a trade-off. No system does fulfil all requirements, and therefore every partnership has to weigh advantages and disadvantages and decide for their appropriate system. Table 2 (below) summarises the advantages and disadvantages for each of the archetypical profit sharing systems from Table 1 (p. 12).

Profit sharing system	Advantages	Disadvantages
Equal share	Fosters collegiality; minimises internal bickering; good internal client cross referral and knowledge sharing	No reward for exceptional performance; more attractive for low than high performers; fairness issues between senior and new partners; risk of shirking / free riding
Pure Lockstep	Retention is rewarded; fosters collegiality; security for partners; good internal client referral and knowledge sharing; risk reduction through diversification	No reward for exceptional performance; more attractive for low than high performers; long period of deferred income for young partners raises conflicts with senior partners; peer pressure on partners to meet expected standards; risk of shirking / free riding
Modified Lockstep	(like pure lockstep) but also reduced risk when appointing new partners; reduced risk of shirking / free riding	(like pure lockstep) but also active decisions needed; risk of quarrel
Eat-what-you-kill	Strong individual motivation for performance; increased individual freedom; encourages individual entrepreneurial action	No rewards for unbillable time (e.g. organisation management); risk of hoarding clients and resulting less quality work; short-term profits might be preferred over long-term development
Merit based	(like eat-what-you-kill), with better internal client referral	Systems can get complex, individuals may optimise figures above overall firm profit
Subjective	Possible to reward exceptional skills or situations;	Might be open to manipulation; trust issues

Table 2: Advantages and disadvantages of different PSS archetypes as reported in the literature

Sources: Gilson and Mnookin (1985); Anderson (2001); Kaiser et al. (2015); Wesemann and Kerr (2015)

The last section described several different PSS archetypes with their various different advantages and disadvantages - all of them are actually in use in law firms. In other words, some partnerships decide for one, others decide for a different one.

For a better understanding of *why* partners might agree or disagree with the systems in place at their practices, the concepts of fairness and justice, trust

and motivation are important. They will be introduced in the following sections in turn, with specific regard to the law firm partnership situation.

2.3 Fairness and justice

Fairness versus justice

In the literature, the words ‘fairness’ and ‘justice’ are often used synonymously (e.g. Greenberg 1987; Ambrose and Schminke 2009; Li and Cropanzano 2009). Goldman and Cropanzano (2015) however suggest that a distinction between them would be sensible: ‘Justice’ should describe the adherence to specific rules or standards (“conduct that is morally required”), while ‘fairness’ should stand for the individual’s perception of these rules (“evaluative judgment as to whether this conduct is morally praiseworthy”) (p. 313).

This study is interested in individual perceptions, specifically of “fairness within the workplace” (Byrne and Cropanzano 2001), not in the concept of *political theory* as in Rawl’s Theory of Justice (Kukathas and Pettit 1990) or justice as a *legal concept*. This focus on the workplace, i.e. an organisational situation, is also important for Goldman: He argues that *organisational justice* is about “justice in the substance of the rules themselves” in contrast with *legal justice*, which is “essentially about conforming to the rules whatever they may be”, and recommends using the term ‘*organisational fairness*’ to distinguish the organisational research from the legal scholars’ research (2015: 264).

Later in this thesis, it is this concept which is meant when using the term ‘fairness’; although specifically in this chapter the term ‘justice’ is also used alternatively with the same meaning, because cited authors have most often done so.

Fairness ideals and justice principles

Cappelen et al. describe four different fairness ideals in a situation where profit is first produced and then shared in a group (see Table 3 below). They oppose *egalitarian* individuals, who do not “hold people responsible for any of the factors determining production” and therefore consider all inequalities unfair; and

libertarian individuals on the other side, who see a full responsibility for all factors, even those driven by pure chance. Two equal opportunity approaches are in between: *Meritocratic* individuals consider all factors relevant which are based on individual skills, efforts and achievements (but not luck), whereas *choice egalitarians* hold people responsible only for their choices, not for their abilities or skills (Cappelen et al. 2010: 430). Profit should be shared based on those factors for which people are responsible.

Fairness ideal	Justice principle	People are responsible for (and therefore profit share should be based on)		
		Individual choices	Individual skills, efforts, achievements	Luck
(Strict) Egalitarianism	Equality	No	No	No
Choice egalitarianism	Equity	Yes	No	No
Meritocratism	Equity	Yes	Yes	No
Libertarianism	Equity	Yes	Yes	Yes

Table 3: Different fairness ideals consider different areas as relevant for a profit distribution decision (Cappelen et al. 2010)

In a law firm environment, strict egalitarianism corresponds to an equal share system; libertarianism to an ‘eat-what-you-kill’ PSS. Both PSS’s do not need active decisions about the profit share, because it is determined by the underlying principle. More complex PSS’s however do need further distinctions, which are not only distribution oriented, but consider other dimensions.

Dimensions of justice

Greenberg (1987) emphasised the distinction between *distributive justice* (which was discussed above) and *procedural justice*, later expanded by the concept of *informational justice* and *interpersonal justice* (Greenberg and Cropanzano 1993). Procedural justice evaluates whether the procedures as such are fair; informational justice emphasises the communication aspect, e.g. if information is given adequately and in a timely way, while interpersonal justice looks at social facets, e.g. showing concern and respect.

Colquitt (2001) confirmed the validity of this 4-factor model; however, some limitations of this model should be considered. All justice measure items in Colquitt's study are based on a *hierarchical situation* between the person being asked and a 'decision maker'. The questions on interpersonal justice (e.g. "Has (he/she) treated you with dignity") as well as on informational justice (e.g. "Has (he/she) explained the procedures thoroughly", p. 389) assume a hierarchy. Colquitt derived his questions from Bies and Moag (1986), who analysed a recruitment situation, which is also inherently hierarchical. Cropanzano et al. (2002: 324) even *define* interactional justice as "the interaction between the individual and his or her supervisor". Some caution is therefore necessary when applying that model to peer based partnerships. However, even in a partnership there *is* often hierarchy, specifically in old firms with many partners at very different seniority levels. Even though very senior partners might have only one vote in the partnership assembly as everybody else, they typically have much more influence and informal power. This is specifically important, when profit sharing decisions are made by committees, which is typical for a Modified Lockstep system. When a partner rates the fairness of a committee decision, two aspects are likely relevant: How transparent is the information shared by the committee regarding the decision? And does the partner feel being treated adequately by the committee? This corresponds to Greenberg and Cropanzano (1993)'s concept of informational and interpersonal justice.

Overall justice

Ambrose and Schminke (2009) argue that a holistic view on justice could be more appropriate than focussing on specific types. German et al. (2016: 35) summarise that "we know little about the relationship between justice antecedents and the resulting global judgments". They showed that individuals weigh the justice dimensions very differently when they make overall fairness judgments. Again, these studies are based on hierarchical situations with "employee-supervisor dyads" (Ambrose and Schminke 2009: 495) or look at performance appraisal situations (German et al. 2016).

There is little research on specific justice dimensions or overall justice in a peer relationship in relation to pay systems. Even though some quantitative research constructs situations based on game theory, in which participants are at least randomly assigned different roles, the decision situations as such typically remains hierarchical, e.g. in a dictator game (Cappelen et al. 2007; Dana et al. 2007; Cappelen et al. 2010; Ubeda 2014) or they remain at least asymmetric as in an ultimatum game⁸ (Fehr and Schmidt 1999). This research will provide first insights to close this gap.

2.4 Trust

There are different fields of research into trust. The behavioural field interprets trust essentially as rational-choice behaviour, often reducing trust to the decision to cooperate or not. This is of lesser interest in this thesis. The psychological tradition looks at expectations, intentions, affect and other intrapersonal oriented states of mind (Lewicki et al. 2006). This matches the research questions better, as it assumes the “possibility that trust may result from other factors in addition to, or instead of strict rationality” (ibid., p. 996).

Trust and trustworthiness

In their seminal work Mayer et al. (1995) propose a dyadic model for *organizational trust* that addresses the relationship between two parties: the trustor and the trustee. Trust is not discussed as a general propensity, but as a non-reciprocal, specific interaction between these two. Trust is defined as “the willingness of a party to be vulnerable to the actions of another party based on the expectation that the other will perform a particular action important to the trustor, irrespective of the ability to monitor or control that other party” (p. 712). The trustor is thus *willing to take a risk* to some extent.

⁸ In an ultimatum game, two persons bargain about the distribution of a certain sum. The proposer offers the responder a certain percentage of the sum, e.g. 20%. If the responder accepts, the proposer keeps the rest (here 80%). If the responder does not accept, nobody receives anything.

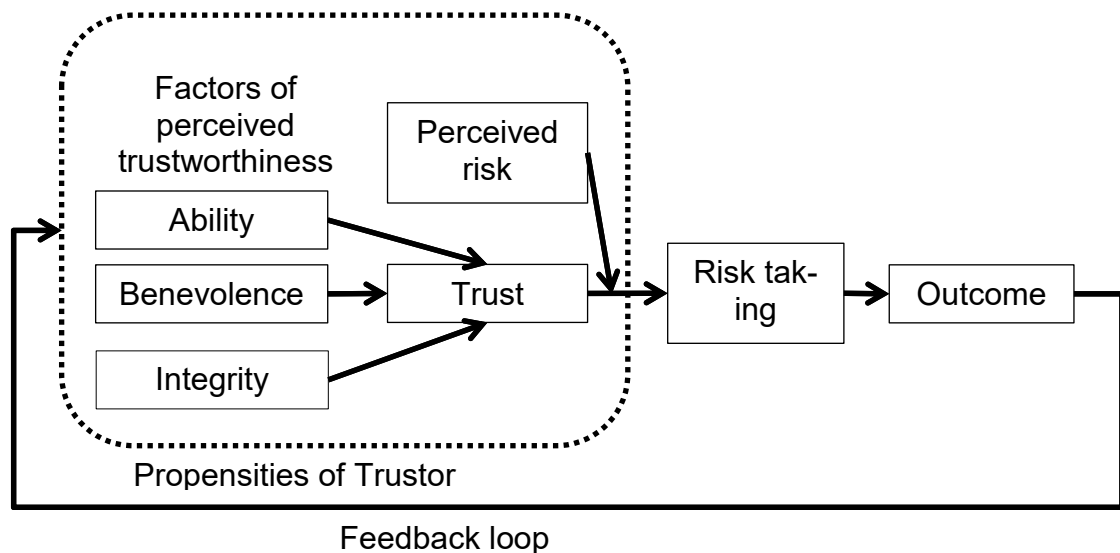


Figure 1: Model of trust, adapted from Mayer et.al. (1995)

According to Mayer et al., the precondition for this willingness to take a risk is the perceived *trustworthiness*: it is the enabler for the actual *trust* of the trustor. The trustor trusts the trustee, only if the trustee is considered as trustworthy. The trustworthiness of the trustee is shaped by three perceived characteristics: *Ability*, e.g. competences and capabilities; *benevolence*, as “the extent to which a trustee is believed to want to do good to the trustor”, and *integrity*, as the adherence to a set of principles common to trustor and trustee (1995: 718).

This model can be used with trustor and trustee each either being individual persons, teams or organisations. Fulmer and Gelfand (2012) found examples for seven out of the nine possible combinations in their systematic literature review, with main emphasis on individuals’ trust in other individuals, individuals’ trust in organisations and organisational trust in other organisations. The first two of these are of interest in this thesis: The trust of law firm partners in other partners, and the trust in their (own) organisation (the law firm and its rules). Fulmer and Gelfand also report that most trust definitions they found focus on the two key dimensions Mayer et al. framed: “positive expectations of trustworthiness” and “willingness to accept vulnerability” (p. 1171). These will be referred to below.

The relationship between fairness and trust

The literature on fairness portrays different sorts of relationship between fairness/justice and trust. Trust might be an *outcome* of perceived *overall* justice (Bediou and Scherer 2014) or just of *procedural* justice (Cropanzano et al. 2002). It might be only *correlated* to procedural justice (Colquitt 2001). Trust might be a *form* of perceived social justice (Kay and Hagan 2003) or be a *mediator* of the influence of justice on organisational commitment (Cropanzano and Mitchell 2005). Colquitt and Rodell (2011) say that “the connection between justice and trust remains poorly understood” (p. 183). Taken together, two characteristics are important, which will inform the model presented below: First, there *is* a connection between fairness and trust, but additional research is necessary to understand the type of connection – which might depend on the specific circumstances. Second, it is helpful to distinguish the different dimensions of justice.

2.5 Motivation

Motivation is often divided into intrinsic and extrinsic motivation (Jordan 1952). Intrinsic motivation could be defined as doing something for its own sake or out of self-interest for reasons that arise within the person, such as feelings of ‘a job well done’, pride etc. (Gagné and Deci 2014), whereas extrinsic motivation relies on external influence factors such as pay or bonus schemes and incentives. According to Deci and Ryan (2000), intrinsic motivation is connected with the perception of autonomy, of competence and the relatedness (attachment) to other group members. Law firm partners thus typically have high intrinsic motivation, as all three factors are typically present in their position. The profit share outcome of any PSS is a typical extrinsic motivational factor, but could also have intrinsic elements, if it takes on meaning as a symbol. Higher extrinsic motivation can potentially even diminish intrinsic motivation, e.g. if it limits the perceived options for individual action and thereby limits self-determination (Kaiser and Ringlstetter 2011). In addition, the process of determining the outcome can potentially affect the intrinsic motivation negatively, e.g. in lockstep based systems with remuneration committees, when some partners have to discuss their poor performance with committee members and commit to counteraction. In these cases, the self-perceived autonomy

and competence of the struggling partner might be harmed, with a decreased intrinsic motivation as a consequence. For the same reason, PSS with excessive control (e.g. performance based measures) contain the risk of decreasing existing intrinsic motivation (Kaiser and Ringlstetter 2011).

In such situations, the exact procedures become important. Zapata-Phelan et al. (2009) looked at the relationship between perceived justice and motivation and found that procedural justice had a significant effect on intrinsic motivation, which was a partial mediator on the relation between procedural justice and performance. They conclude that 'procedural justice rule adherence' increases intrinsic motivation and thereby ultimately performance. However, their research (similar to much other research on motivation) was based on either students or salaried employees; little research examines motivation in the specific context of peers in partnerships. It remains an open question whether the same relationships apply here, which will be part of the investigation of this thesis.

Hierarchy

Research on motivation often shares a property with research on justice: Hierarchy. Miner (2005) identifies 38 different theories on 'motivation and leadership' in the organisational context and considers 19 of them as relevant, most of them with a strong quantitative focus. He states that "motivation and leadership have always been closely allied subject matter for organizational behaviour, and they appear to be moving closer to each other over time." (p. xiii). This interconnection between motivation and leadership is typical for research on motivation and assumes by definition a hierarchical setting: a 'leader' needs followers to lead, and this is done or facilitated by 'motivating' them, directly or indirectly. Like the research on justice and that on trust, research on motivation in non-hierarchical organisational settings like partnerships remains scarce.

2.6 A new taxonomy for Profit Sharing Systems

The existing PSS's are typically discussed along just one dimension, as shown above (see 2.2). The key distinction between the PSS's in the literature is usually, how far *individual* performance as opposed to *seniority and group membership* influences the profit distribution (Gilson and Mnookin 1985; Morris and Pinnington 1998; Faulconbridge and Muzio 2008). Previous research however indicated that another dimension should be taken into account: the *way* specific decisions about actual profit shares are made every year (Wiegmann 2016 unpublished). For some systems (Equal Share and Pure Lockstep), the shares are predetermined, so no yearly decisions are necessary. In all other systems however, distribution decisions have to be made every year. This is based either on the application of *formulas*, or on *human decision making*, typically through committees.

This dimension, which focusses on the actual *way of implementation*, is currently underrepresented in the academic literature (a long footnote in Gilson and Mnookin (1985: 390) is the rare exception). Professional literature however indicates the importance of this dimension: only around 20% of the large law firms in Germany (Schoen 2016), the UK (Viney 2013) and Europe (Wesemann and Kerr 2015) use pure systems, where no decisions are necessary. The vast majority of firms adopt a PSS that includes a mixture between group based and individual, performance based sharing: Modified Lockstep and Merit based.

The model presented below tries to fill this gap. It is intended to help understand the differences between those systems that *combine* performance based and group based characteristics; later in the discussion (chapter 6), it will be shown how to operationalise the model, so that it can be used in practice to help law firm partners decide which PSS to use.

By combining the two dimensions, the group vs. individual orientation and the human vs. formula mode, a two dimensional matrix results that can be used to classify different PSS's (see Figure 2 below).⁹

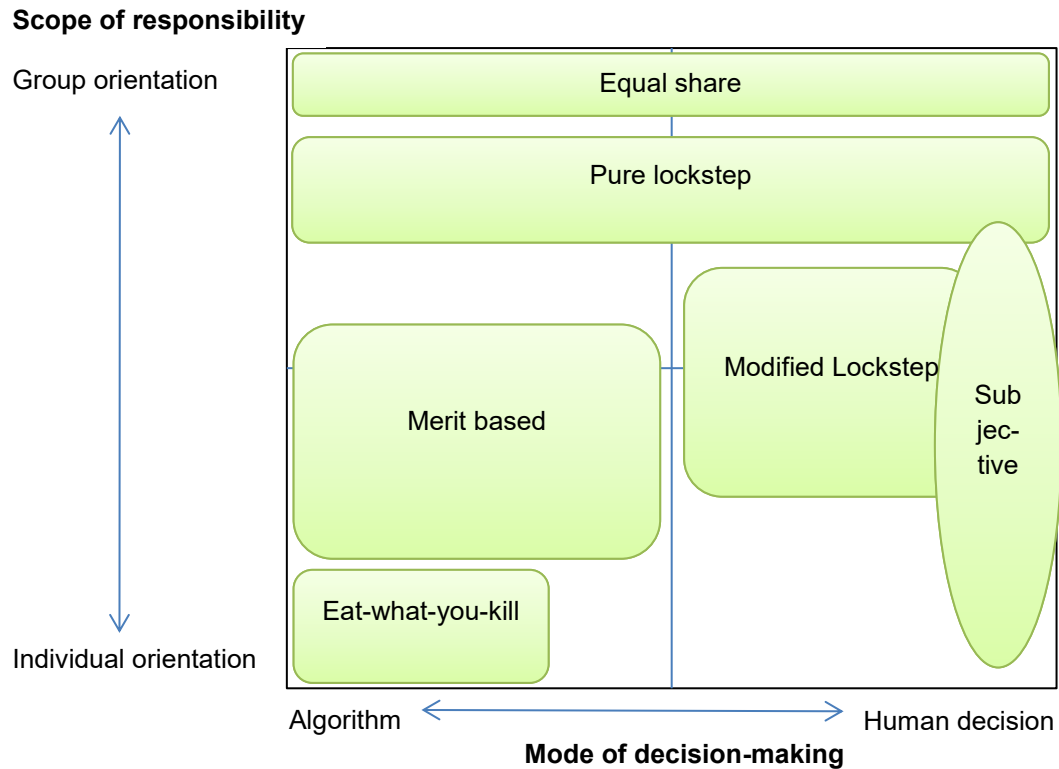


Figure 2: Classification of typical PSS by two dimensions: the orientation on group or individual measurements, and the decision making principles based on algorithms or human decisions

The two-dimensional matrix in Figure 2 connects to the conceptual dimensions of justice and trust mentioned above. The vertical dimension relates to fairness ideals, with strict egalitarianism at the top and libertarianism at the bottom, and therefore *distributive justice* principles. The horizontal dimension relates to *trust*, specifically the aspects of “willingness to accept vulnerability” and perceived trustworthiness, which are the more important, the more human decisions are involved. Also, *interpersonal justice* becomes the more relevant, the

⁹ For illustration purposes, the PSS types are drawn here with sharp boundaries. In reality, specifically Modified Lockstep and Merit systems are quite adaptable, so that the boundaries blur and overlap. Equal share and Pure Lockstep do not require decisions and therefore spread horizontally.

more human decisions are included in the system. On the other hand, algorithm based PSS's are based on figures and rules, so *informational justice* is presumably more relevant for them.¹⁰

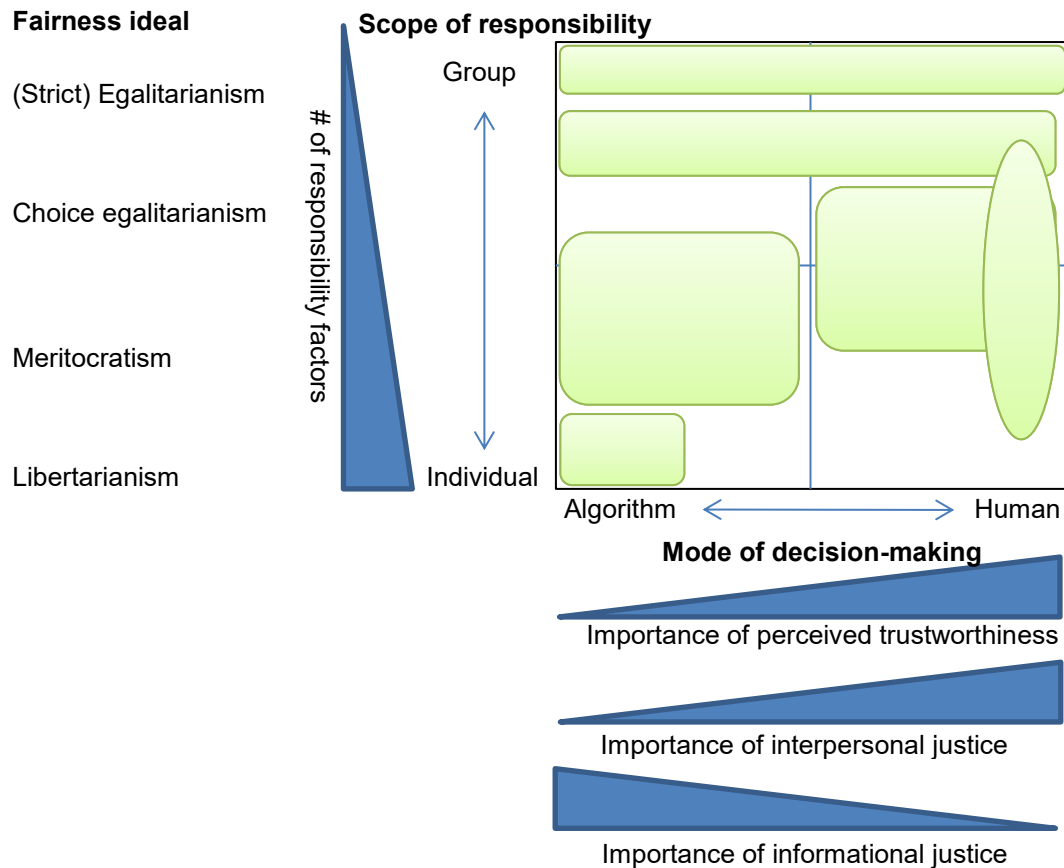


Figure 3: Presumed links between fairness, trust and different profit sharing systems

Although there *are* links between trust, fairness and the respective PSS's, the exact relationships remain unclear at this point, specifically in this peer-to-peer context.

2.7 Summary

This chapter introduced the general area of this research: law firm partnerships and the profit sharing systems typically used there, with an explanation of their purposes and their main advantages and disadvantages as discussed in the

¹⁰ Procedural justice (e.g. that rules are applied consistently) is likely also relevant for law firm partners. Procedural justice is however more linked to the *execution* of any PSS, and less suited to distinguish the different *types* of PSS.

literature. It was established that although the mechanics of the systems are well known, there is little research why exactly partners in one partnership decide for one system, and others opt for a very different system.

Theoretical concepts from three bodies of literature were introduced to approach this situation: First, research on organisational fairness distinguishes different fairness ideals, related justice principles and justice dimensions. Second, organisational trust research in the psychological tradition, being interested in expectations, intentions and intrapersonal oriented, considers perceived trustworthiness as antecedent of trust and uses the concepts of ability, benevolence and integrity to explain trustworthiness. Third, motivation research distinguishes intrinsic from extrinsic motivation and draws some connections to perceived justice.

Starting from this, a tentative model to classify PSS's along two dimensions was introduced: The scope of responsibility (whether the sharing is based more on group or more on individual effort); and the mode of decision making (whether based primarily on algorithms or human decisions). Concepts from the literature on fairness and trust relate to these dimensions: Fairness ideals from egalitarianism to libertarianism relate to the scope of responsibility, whereas the dimensions of interpersonal and informational justice might relate to the mode of decision-making, as well as the degree of perceived trustworthiness between the partners. The exact relationships remain however unclear. It was shown that most research in the area of organisational justice and organisational trust as well as on motivation is based on hierarchical situations like employee/supervisor, and little is known about non-hierarchical relationships, as found in partnerships.

Exploratory research is therefore needed to generate new insights, which is the aim of this research. The next chapter will describe the methodology and methods that are suited to this purpose.

Chapter 3: Methodology

This chapter describes the methodological approach of this thesis, the design and the specific methods used in the study, based on the philosophical worldview of the author.

Research philosophy

This thesis is rooted in a philosophical worldview near to (American) Pragmatism, based on the ideas of Charles S Pierce, John Dewey and William James. According to them, research starts with a problem to solve, a question, and is about action, interested in how to shape the future (Elkjaer and Simpson 2011). Theories, as well as methods, are tools for that. William James believes that “the truth of a statement can be defined in terms of the utility, the practical usefulness (...) Something is true if it allows us to accomplish what we set out to accomplish” (Greetham 2006: 77). Or shorter: “Truth is, what works” (Robson 2002: 43). With a pragmatic worldview, the difference between theory and practical application is blurred: “When theory is a tool, it at once becomes practical, provisional and pluralistic. Tools are practical because they solve problems, provisional because they can be replaced by better ones and pluralistic because they can be used in tandem with others” (Shields et al. 2013: 125).

The pragmatic worldview is generally open for both qualitative and quantitative research approaches. This does not mean that the choice of methods is arbitrary: They must fit and help to ‘solve the problem’. Following Creswell (2013b), three approaches to research are available: *Qualitative* research, which is suited for “exploring and understanding the meanings individuals or groups ascribe to a social or human problem” (p. 32); *quantitative* research, which is appropriate for testing (existing) theories and examining the relationship between variables, and *mixed methods*, which basically integrates qualitative and quantitative data in one study, using however distinct designs for each. Another possible distinction is that of Robson (2002), who differentiates between *exploratory*, *descriptive*, *explanatory* and *emancipatory* research. Whereas exploratory research is interested “to find out what is happening”, “ask questions” and “generate ideas and hypotheses for future research”, descriptive research

is about accurately portraying persons, events or situations. Explanatory research in contrast “seeks an explanation (...), traditionally (...) in the form of causal relationships”; and emancipatory research “creates opportunities and the will to engage in social action” (p. 59).

Any chosen research approach should match the problem and the philosophical worldview of the researcher. Whereas researchers with a post-positivistic worldview, assuming cause-effect-relationships, typically prefer quantitative research, constructivist or interpretivist worldviews assume that meaning is constructed by humans through interaction with each other and the world, and tend to qualitative studies (Crotty 1998; Creswell 2013b).

Research methodology

The research questions of this thesis are concerned with *perceptions and understandings* of individual law firm partners regarding their profit sharing systems. A qualitative approach is therefore better suited to this research than a quantitative approach. The research questions are not purely descriptive, they do not presume causal relationships, and they are not about social action. Using Robson’s terminology, exploratory research is thus more appropriate than descriptive, emancipatory or explanatory research.

Following the pragmatic approach (and consistent with the fact that this is a DBA, not a PhD thesis), the ultimate goal of this thesis is not a theory as such, but something applicable. Pragmatic research and the aim of knowledge are about enabling future action, not to “correspond to the world” (Rumens and Kelemen 2013: 13).

Based on this epistemological position, individual, in-depth interviews and thematic analysis are chosen as the most suitable methods - the next section explains why. After that, data collection and data analysis procedures are described in detail, the latter following the protocol suggested by Braun and Clarke (2014).

Then some ethical considerations follow, which also influenced the study design. The chapter concludes with an evaluation of the quality of this methodological approach.

3.1 Research design

Choice of data collection method

Individual in-depth interviews

The research questions of this study take the perspective of individuals (*what understanding of trust and fairness do law firm partners have...*). Interviews are an accepted and frequently used method to access individual perspectives, if not “the most widely employed method in qualitative research” in general (Bryman and Bell 2015: 479). They are specifically suited for this study, as they assess “individual perceptions of processes within a social unit” and are appropriate for exploratory research (Robson 2002: 271). Qualitative interviews “encourage the interviewee to share rich descriptions of phenomena while leaving the interpretation or analysis to the investigators” (DiCicco-Bloom and Crabtree 2006: 314), which is what this thesis intends to do.

Other available methods would include focus groups; researcher directed diaries; ethnographic approaches; participant observation; biographical research and case study research. However, these methods are not better suited for the following reasons.

Doing research that involves law firm partners presents specific challenges. Lawyers in general are committed to strict confidentiality principles. The lawyer–client–relationship is protected by law¹¹ and protecting the interest of a client often involves secrecy. Lawyers are trained to regulate their client’s and their own objectives without disclosing details or revealing intentions. This not only applies for client work, but also influences how they work together, and what information they are prepared to share with an external researcher. Law firm partners, i.e. the owners of the firm, pose additional challenges. These senior professionals work a lot, have tight schedules, and value every hour. They are very difficult to access, and are typically not prepared to invest too

¹¹ In Germany, the attorney-client privilege is codified in §43a of the Federal Lawyer’s Act (BRAO) and §2 of the Professional code of conduct for lawyers (BORA).

much time. In addition, they are used to guard their external image and are highly reluctant to disclose information (Empson 2018).

This situation excludes some of the other methods mentioned: It is difficult enough to get access to *one* partner at a time. A focus group, which requires several participants at the same time (Braun and Clarke 2013), would be extremely difficult to organise. In addition, partners might not be open and honest in a group situation, given the topic of trust. For the same reason, other methods that require high involvement like researcher directed diaries are not feasible, as they would require a substantial, ongoing time investment which law firm partners are not prepared to make. Those methods that are mainly based on observation are also inappropriate, as it is not possible to observe the *understanding* of something directly. In addition, situations related to profit allocation decisions typically occur only once or twice a year and typically in confidential situations like remuneration committee or partner meetings. An external researcher will most likely not have access to these situations. Biographical research looks at life history of a person, but here the focus is on organisational structures (the PSS). Case study research might use interviews as one source of information, but typically also uses other sources, e.g. document analysis. Here again the confidentiality situation makes it very difficult to get access for research purposes. In addition, case studies focus on individual (or few) persons, groups or organisations (Robson 2002). This research though aims to relate several *different* PSS to perceptions of trust and fairness, which requires a higher number of different individuals than case studies would allow for a one-person-research project. Individual interviews are thus the preferred method to collect information.

Semi-structured interviews

Interviews can be conducted in different ways: Highly structured with predetermined questions; semi-structured, using pre-planned questions which however might be changed, omitted or be supplemented by others in the single interview; and fully unstructured interviews, where the conversation develops unpredictably (Robson 2002).

Highly structured interviews are typically used in quantitative research, but they are not well suited for exploratory, qualitative studies. Unstructured interviews by contrast tend to be used to examine individual roles in detail rather than general individual/team arrangements, according to Bryman and Bell (2015). They recommend semi-structured interviews particularly if the researcher has a “fairly clear focus” (p. 483), which ensures that the specific areas of interest of the research can be discussed in a limited period of time. Semi-structured interviews are also ideal for discussing sensitive issues and provide the flexibility to adapt to unplanned situations (Braun and Clarke 2013) and are therefore suited for elite interviews. For a semi-structured interview it is however necessary to quickly establish a positive relationship between interviewer and interviewee (DiCicco-Bloom and Crabtree 2006), which was possible in this study (see section on access below, p. 35). Taking these points together, semi-structured, individual in-depth interviews are the best-suited method to collect data in this environment.

Choice of data analysis method

Available methods for the analysis of qualitative data

For the analysis of qualitative data from interviews, Braun and Clarke (2014) discuss four methods: Thematic analysis (TA), interpretative phenomenological analysis (IPA), grounded theory (GT) and pattern-based discourse analysis (PBDA). Phenomenology and GT are also included in Creswell's (2013a) five approaches; in addition, he suggests ethnography and case study, which are not suitable for the reasons explained above, and narrative research. Of all these, TA is the best fitting method, compared to the alternatives:

IPA is not interested in solutions to problems or in facts generally, but in the “essence” of a phenomenon. It's about what and how the interviewees experience situations or events (Giorgi 1997). For that, phenomenologists try to see the world without presuppositions, by “bracketing” the world and existing theories (Finlay 2008). In this study however, existing theories form the base for the research question, as explained in the last chapter. They inform the interview guide, as well as existing knowledge of the author, and practical solutions are an explicitly desired outcome of this study.

Narrative research is typically based on told *stories* of (few) individuals, and usually takes a chronological approach (Creswell 2013a), which is different from semi-structured interviews.

Discourse analysis presupposes that meaning and reality is created by language, not only reflected by it. The author does not share this constructionist view, but rather sees language “as if it provides a window to the person’s interior” (p. 24), classifying this research as ‘experiential’, rather than ‘critical’ (Braun and Clarke 2014).

Finally, a grounded theory approach would aim for a “unified theoretical explanation for a process or action” (Creswell 2013a: 83). Theory development is at the core, and here too pre-existing theories and concepts typically do not play an important role, or are even seen as dangerous (Suddaby 2006). Suddaby also mentions that GT “rarely have interviews as their sole form of data collection” (p. 635). In addition, a “unified theoretical explanation” does not match very good with the contingency approach of Harlacher and Reihlen (2014), who argue that professional service firms choose forms of governance (which includes the PSS) based on several, mostly individual factors. Therefore, the GT methodology as a whole is not suited for this research, even though some aspects of the thematic analysis methods within GT are leading in the right direction.

Thematic analysis

Thematic analysis in contrast supports a wide range of research and is not linked to a specific epistemological position. Braun and Clarke (2006, 2014) distinguish different varieties of TA. Pure inductive TA is not “shaped by existing theory” and inasmuch resembles GT; theoretical TA is guided by existing theoretical concepts; experiential TA looks at how participants experience and make sense of the world (a taste of phenomenology); and constructionist TA searches to explain how topics are constructed (p. 175). Boyatzis (1998) uses a slightly different distinction and differs between theory-driven, prior-research-driven and data-driven approaches. Whereas the first two create codes first (from theory, or from prior research), which are then “applied” on the data, the third approach is inductive and generates new codes from the data.

Here, a combination of theoretical and experiential TA will be used. Prior research and the specific areas involved will inform some of the categories used during the analysis process (Boyatzis 1998). For example, the constructs introduced in chapter 2 (Research field and Concepts) like trust, fairness, motivation are used as pre-defined categories. In addition to that, the explorative component of experiential TA allows for unexpected findings, resulting in new codes and themes emerging at the time of analysis (Braun and Clarke 2006).

Many authors on qualitative research emphasise the importance of a detailed recording of the procedures to provide an audit trail (Bryman and Bell 2015) and thus ensure trustworthiness/dependability (Guba and Lincoln 1994; Robson 2002). This compares to the criteria of validity and reliability in the positivist paradigm, which are typically used as evaluation criteria in the context of quantitative research. The following two sections will therefore describe that process in detail.

3.2 Data collection

Sampling

Sampling is a key issue in qualitative research (Boyatzis 1998; Bryman and Bell 2015), because deep data are typically collected from a relatively small number of people instead of narrow information from many. The choice of interview partners therefore defines and limits the data to be collected. Two sampling strategies are available: Random/Convenience sampling or Purposive sampling (Robinson 2014). The first strategy uses randomly chosen cases from a defined total population, which is in practice often not 'random' compared to the total population, but selected of an easily available group for 'convenience' reasons – preferable psychology or economics students, as in many quantitative studies published in 4* journals (e.g. Konow 2000; Cappelen et al. 2007). Purposive sampling on the other hand deliberately selects participants based on a priori-understanding of the topic to ensure that particular instances of certain cases are included in the final sample (Robinson 2014). Here, due to the access issues described above, a purposive sampling strategy was chosen.

A suitable purposive sampling strategy needs to balance different objectives: On one side, maximum variation sampling would ensure as diverse a range of participants as possible, supporting the exploratory, inductive approach to generate new insights. On the other hand, it might be helpful to compare data from participants to identify patterns, which requires that the participants share some specific characteristics, but are different in others (criterion sampling).

A combination of these two sampling strategies was therefore chosen. The research question defines the interviewees as being law firm partners. A minimum firm size of ten partners ensures that all kinds of PSS's are possible (*lockstep* for example makes no sense for very small firms). Partners were selected from the top 100 German commercial law firms (by revenue), using a popular commercial trade magazine ranking (JUVE 2017). The study focusses geographically on Germany, for access reasons facilitated by the author's own contacts and professional relationships and because law firm's legal structures and profit sharing systems as well as cultural and historical settings differ significantly between countries (Empson et al. 2015a; Wesemann and Kerr 2015). Comparing different cultures and nations would be insightful, but is beyond the practical, pragmatic scope for this study. All interviewees therefore share the same German academic background as trained lawyers and all work for law firms for many years. Even though their income varies, it is always very much higher than the German average. Compared to the society as whole, they form a relatively homogenous group.

The variation came in when selecting the interview partners out of this group of about 3.200 persons in Germany (JUVE 2017). The interviewees included some with a management role and some without; male and female; long and short belonging to the partnership; members and non-members of remuneration committees. 15 participants from 10 different law firms were selected. Interviews were scheduled in two waves from September 2017 to June 2018.

Table 4 provides biographical data about the interviewees and their firms; to ensure anonymity¹², only ranges are given for specific information. Originally,

¹² Anonymity and confidentiality will be discussed in more detail in chapter 3.3, p. 45

all interviews were given a number. However, during the analysis phase (which will be described in the next section) it turns out that the absence of names makes it much more difficult to connect information, for example to be aware that different quotes belong to the same person. To help with that and to facilitate writing in a more reader friendly way when using quotes, all interviewees were given alias names in alphabetical order. The alias name of the first interviewee starts with A, the second with B etc. Names were chosen according to gender from a list of the most popular baby names in the decade of the birth of the interviewee (Office for National Statistics 2018), which might help to give an additional impression while reading.

Nr	Alias name	Gender	Age	Partner since	Management role	Firm size (fee income)	Type PSS	Duration interview
1	Andrew	M	55-59	~5 yrs.	No	100-200m€	Modified Lockstep	59'
2	Bob	M	55-59	~15 yrs.	Yes	100-200m€	Modified Lockstep	71'
3	Christopher	M	40-44	~10 yrs.	No	100-200m€	Modified Lockstep	56'
4	Diane	F	55-59	~15 yrs.	No	100-200m€	Modified Lockstep	59'
5	Edward	M	50-54	~20 yrs.	Yes	50-100m€	E-w-y-K	67'
6	Francis	M	45-49	~15 yrs.	Yes	25-50m€	E-w-y-K	64'
7	Gareth	M	40-44	~10 yrs.	Yes	50-100m€	Modified Lockstep	50'
8	Howard	M	50-54	~20 yrs.	No	25-50m€	Merit	46'
9	Imogen	F	40-44	~5 yrs.	No	10-25m€	Merit	42'
10	Jennifer	F	35-39	~3 yrs.	No	50-100m€	Modified Lockstep	55'
11	Keith	M	40-44	~3 yrs.	No	10-25m€	Pure Lockstep	41'
12	Lee	M	45-49	~15 yrs.	No	10-25m€	Pure Lockstep	49'
13	Martin	M	55-59	~30 yrs.	Yes	10-25m€	Pure Lockstep	51'
14	Nigel	M	60-64	~30 yrs.	Yes	50-100m€	Modified Lockstep	41'
15	Oliver	M	55-59	~25 yrs.	Yes	25-50m€	Merit	52'
								803'

Table 4: Overview about interviewees
For an explanation of the PSS types, see chapter 2.1

Access

Access is a key issue in all research but especially so when interviewing elites (Drew 2014). It is difficult to get access and gain their trust. The specific topics of interest (motivation, trust in fellows, financial implications etc.) even increase

the importance for a trustful situation between researcher and interviewee. Therefore, the existing network of the author was used, as he works in the law firm industry for many years and is personally known to many of the interviewees from business projects in the past. This “facilitated to develop rapport and engage with each other” and therefore helps to obtain high-quality data (Gilgun 2014: 661), but also presents a challenge in maintaining a critical distance (Empson 2018), which will be discussed further down.

Potential interviewees were selected by matching the JUVE (2017) list of the 100 largest law firms in Germany with a list of known individuals from former projects. They were contacted by an e-mail explaining purpose and background of the study, including an information sheet regarding the research (see Appendix I: Information sheet). Elite interviewees are typically not willing to travel or to adapt to the researchers schedule (Mikecz 2012), therefore it was suggested to visit the partners in their offices to minimize their time investment and increase the approval rate. After two weeks, a second e-mail restating the importance of specifically this interview was sent.

Fifteen out of twenty contacts consented to an interview, two replied that they do not participate in such interviews as a matter of principle, three did not reply at all.

Interview setting

All interviews took place in the offices of the interviewees, typically in a separate conference room, occasionally in the individual office of the partner. Usually, only one interview was conducted each day to allow for intensive immersion directly after the interview; sometimes two, if travel to a distant city was involved. The interviews took around one hour (details see Table 4, p. 35).

The interviews started with an explanation of the purpose and procedure, including how the interview transcriptions will be processed and used. After signing the consent form (see Appendix II: Consent form), the audio recording was started using an iPhone 5S. Checks in advance in different environments ensured a high recording quality.

All interviews were conducted in German, German language was also used during analysis. Only in the last step, the writing of this report, themes and quotes were translated into English to illustrate and inform the analysis.

Interview guide

The interviews were semi-structured, supported by an interview guide, that includes reminders on technical and formal procedures, the exact opening question, and example questions to steer the discussion in case it drifted off topic (see Appendix III: Interview guide).

After some initial talk, all interviews started with the opening statement “Tell me something about your profit sharing system”. This focussed the discussion on the topic of interest, without steering the interviewee in one specific direction or imposing the author’s “preordained understandings of their experience” (Gioia et al. 2013: 17). Almost all interviewees started to explain the mechanics of their PSS in an abstract, rather unemotional way. At some stage, a question like “And how do you think about that?” changed the focus to individual appraisements. The specific topics of trust, motivation and justice were deliberately not introduced by the researcher; however, when an interviewee used one of these words or concepts, follow up questions did refer to that. Questions from the interview guide were used if the interview did not move forward, drifted off or did not touch the topics of interest in the first 30 minutes of the interview; but this was rarely necessary. About ten minutes before the end of each interview the participants were asked if they have “additional comments on these themes of fairness, trust and motivation” to refocus to the central areas of interest. A closing question shortly before the end invited to add or emphasise subjectively important issues (“is there anything relevant in this context, which we didn’t discuss by now”).

3.3 Data analysis

The data analysis followed in general the seven stages proposed by Braun and Clarke (2014). Braun and Clarke themselves describe that this process is seldom linear, resulting in a certain overlap of the stages. Consistent with that, stage 5 and 6 were not strictly separated from each other.

Stage	Task
1	Transcription
2	Familiarisation, first identification of interesting topics
3	Complete coding
4	Searching for themes
5	Reviewing themes, finding relationships
6	Defining and naming themes
7	Finalising analysis while writing

Table 5: Stages of coding and analysis proposed for Thematic Analysis (Braun and Clarke 2014)

Stage 1 and 2: Transcription and familiarisation

Later on the day of the interview, listening to the full audio recording served as first immersion into the data, meanwhile noting spontaneous ideas. The interviews were then transcribed using an external transcription service specialised on scientific research, using “simple transcription rules” as defined by Dresing and Pehl (2012). A specific non-disclosure contract was signed beforehand with the transcription service to enhance confidentiality, e.g. requesting high-encrypted data transfer. Appendix IV (p. 165) contains example extracts of two original transcripts, together with a translation in English. Those parts are highlighted that are used in the findings chapters as quotes.

Stage 3: Coding

Having received the transcripts, they were then fully checked against the recorded audio information for accuracy (Braun and Clarke 2006); misunderstandings were corrected in the transcript. This served as the second immersion into the data. At the same time, identification information like names was neutralised, and first memos with ideas regarding specific statements were attached to the respective text segments. In a third complete reading, a full descriptive coding (Saldaña 2014) of all interviews was attached to the transcripts (between 22 and 107 codes per interview, in total 734 different codes).

Stage 4: Searching for themes

During the next cycle, the codes were clustered into related themes. Initial themes were the major topics of interest (fairness, trust, justice), but sub-themes were created throughout the process. In addition, unexpected, but emerging themes were identified. All codes were reordered, reattached to themes and/or condensed during this process. Some rather similar codes were pooled. This stage was not linear, but an iterative process (Braun and Clarke 2006; Teddlie and Tashakkori 2009) and corresponds to stage 4 and 5 of Braun and Clarke (2014).

The process of searching for themes was facilitated by using a software package for qualitative data analysis (MAXQDA 2018). The software facilitates concentration on *codes* at this stage instead of on the original transcripts, while providing an easy, reliable way of going back to the original quotes behind any code. The integrated functionality “Summary Grid” offers a quick, interactive overview about codes and themes.

Other benefits and risks of using software in qualitative research will be discussed below (p. 41).

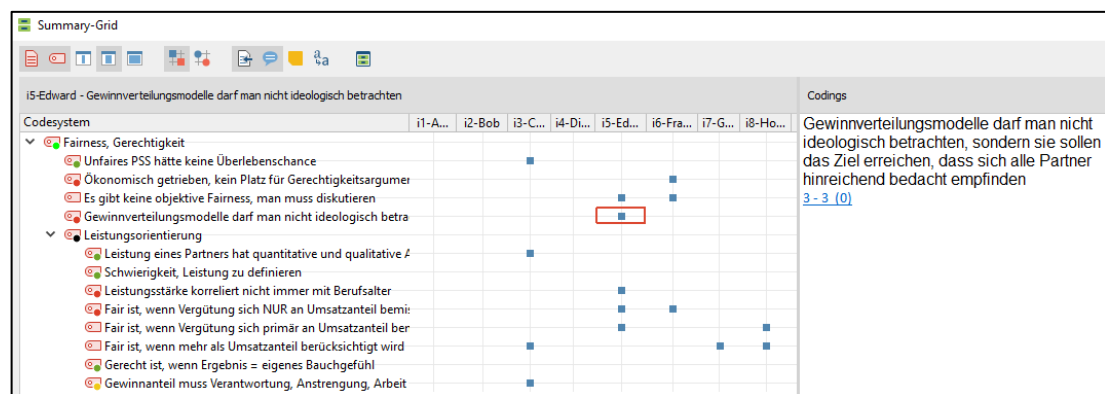


Figure 4: Example overview of theme, codes and transcript segment, showing the underlying original interview segment for the selected code.

Stage 5 and 6: Reviewing themes; finding relationships, defining and naming themes

In the next step, themes and connected codes were colour coded depending on the PSS type under which they occurred (e.g. blue for Pure Lockstep, yellow for Merit based, and white for more than one). The colour could then serve

as a filter for the analysis of PSS type related codes. At this stage, a graphical interface of MAXQDA (MaxMaps) was used to connect the different themes and classify them as preconditions or consequences of the respective PSS (results of this process including graphical overview see chapter 4, Figure 7 to Figure 10, p. 55, 58, 64 and 69).

Stage 7: Finalising analysis while writing

Up to this point, the process of generating codes, themes and finding the relationships between them was basically *inductive*, meaning that theory is expected as an outcome of research (Bryman and Bell 2015). The codes initially emerged from the interview transcripts, i.e. the reported perceptions of the interviewees. The themes were also generated from the codes, even if they were unavoidable informed to a certain extent by the existing knowledge of the author, as well as the assumed relationships between them.

When writing the findings chapter however, a *deductive* component was added, i.e. an aspect of ‘testing existing hypothesis’ by comparing them to collected data. The second research question is “How does this understanding *link to their specific profit sharing system?*”. Where appropriate, the assumed relationships were therefore ‘tested’ against the different PSS types to see if there is indeed an influence of the PSS type on a specific idea or relationship. This test used a specific functionality of the MAXQDA software that allows to selectively show only those coded text passages which belong to a specific group of codes *and* to a specific group of interviews. A good example for the result of that process are the findings in chapter 5.2 (p. 77 ff.): The quotes showed in Table 6 (p. 81) were identified by selecting all codes related to ‘fairness’, and then selecting all interviews from one PSS type (e.g. ‘Merit’), representing one row in the table, one after the other. The resulting set of quotes was then checked for the appearance of one of the three subthemes in the table. This allowed reviewing systematically if there seems to be an influence of the PSS type on the subtheme.

The use of software (CAQDAS)

Computer assisted qualitative data analysis software (a generic software category, abbreviation CAQDAS) was used to analyse audio files and transcriptions. A good overview about general benefits and risks of CAQDAS can be found in Silver and Lewins (2014), who compare eight specific software packages available that year. Using their classification, three packages were pre-tested (MAXQDA, Atlas.TI and NVivo). MAXQDA (2018) was chosen after an assessment of the respective features and usability.¹³

While such software does not *conduct* the analysis as such, it provides a very helpful tool to organise work and assist in the creative process of developing and structuring ideas. Working on a text level (like in Word or Excel) is possible, as well as working visually e.g. by “moving cards” and dragging lines between them. Attaching memos to text passages, to codes, to themes or whole interviews helps organising and automatically provides links between audio snippets, text transcript, assigned codes, themes and memos. This enables the researcher to keep a traditional, pen-and-paper-like working style with cards and annotations, if desired, while profiting from modern IT. For example, when selecting a theme, all related codes are displayed; when one of the codes is selected, the respective sections in the transcription are displayed, and a click on the symbol next to the text section plays exactly that section from the audio file. This makes it very easy to check if a specific statement really supports a theme, and to revisit the coding, or the themes, if necessary.

These benefits outweigh the disadvantages of CAQDAS, stated e.g. by Robson (2002), who mentions three of them: First it takes time and effort to gain proficiency; second there might be reluctance to change categories once established; and third the software design might impose specific approaches during data analysis. However, since then this software type has developed tremendously, and graphical design makes it very quick to learn. The second

¹³ The other packages have comparable features, and would also have been generally suited for this work. MAXQDA's interface is however easier to learn and has better visualisation tools using colours. NVivo has advantages when processing data tables, massive data sets and when using online collaboration; AtlasTI is good at integrating network maps (see Schmieder 2014), but these advantages are not relevant for this study.

argument holds even more for *real* pen-and-paper work, whereas renaming codes and restructuring themes becomes much easier in software than on cards. On the third argument, Silver and Lewins (2014) state that today “using software is a creative process since qualitative software packages – in essence and design – are inherently flexible” (p. 3). This might not be true for *every* qualitative research, but certainly applies for the methods used in this study.

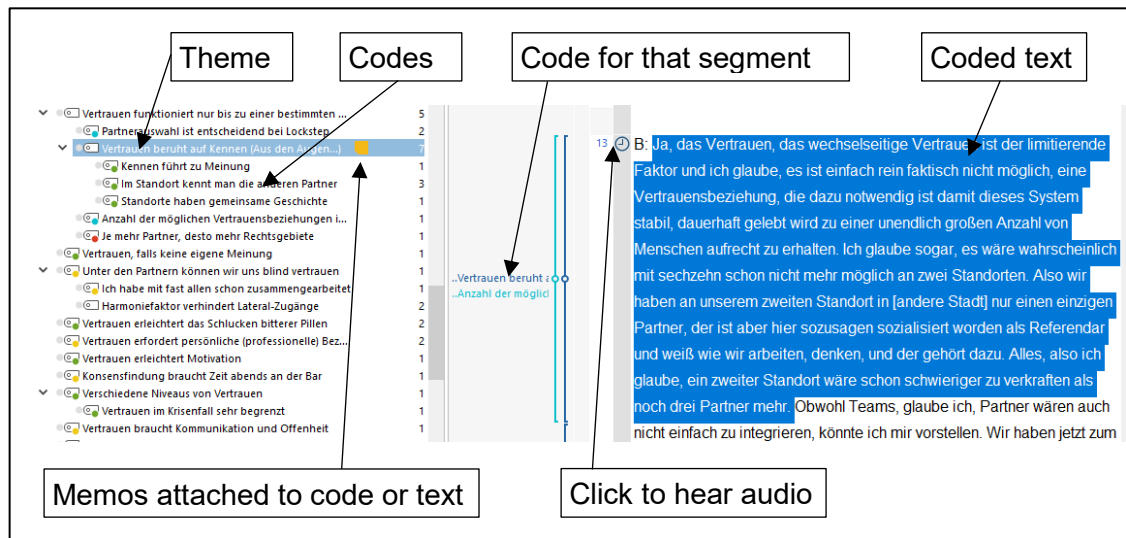


Figure 5: Example of a coded segment in MAXQDA software, linked to theme and original transcript, including audio. As all interviews were conducted in German, German language was used during analysis. Only in the last step, the writing of this report, themes and citations were translated into English.

Ethical considerations

The arrangements aimed to meet ethical standards for qualitative research, particularly protecting information and privacy; be honest about the nature of the study; preventing harm to the participants; and no exploitation of the interviewees (DiCicco-Bloom and Crabtree 2006; Creswell 2013a; Bryman and Bell 2015). These standards might seem self-evident at first glance, but it is not trivial to fulfil them: Protecting information and privacy prohibits sharing specific information on the interviewees. Following the recommendation of Gioia et al. (2013), not *confidentiality* was promised (which would have prevented the use in a published academic thesis), but *anonymity*. The interviewees are part of a group of only 3.300 people in Germany and sometimes well known to each other. Just two or three pieces of information might identify a person, at least

to other members of that group. This also limits the audit trail. This is the reason why only limited statistical information about the participants is given (see **Table 4**, p. 35).

Being honest about the nature of the study contrasts with the aim not to prime an interviewee with ideas or concepts. The information sheet (see Appendix I) is therefore a little abstruse. It informs about the general area of interest, but does not mention the central concepts the author was interested in in exact words. During the course of the interview however, these specific areas were explicitly mentioned, as described above. There was no indication during the interviews that interviewees were surprised when the specific areas were mentioned; in contrast, most of them started to discuss issues related to fairness, trust and/or motivation on their own.

Compared to that, preventing harm to the interviewees is easier: Law firm partners are powerful people, able and used to protect their own interests in situations that are based on discussion and verbal information exchange. As long as they can trust the researcher that the information given remains anonymous, they are not considered to be particularly vulnerable.

This powerfulness of lawyers might have the downside that the information provided is partially censored. There is no indication that interviewees intentionally provided wrong information, but as they are (due to their experience as lawyers) all very aware of what they say, it is to be expected that statements have a tendency to be too positive when describing the own situation. Therefore, when looking at downsides of any system, also arguments from interviewees *not* using that system are of interest and were used during analysis. Some of the interviewees however discussed problems or limitations of their PSS very openly.

Exploitation of interviewees for the sake of the researcher is typically discussed in setting when the interviewees are seen as underprivileged or vulnerable (DiCicco-Bloom and Crabtree 2006; Traianou and Zeller-Berkman 2014). This is not the case here. In many of the interviews, the interviewees

were grateful for an “interesting discussion” and asked the author for a summary of the results, which is also offered in the information sheet. The latter is a common way to “give back something” to participants of a study.

Another issue comes with the selection of the interviewees. As explained above (Access, p. 35), the author used his personal network to contact potential candidates. This raises some problems: potential conflicts of interest may arise; it is more difficult to maintain a critical distance; and the answers might be “biased” because of the personal acquaintance of interviewer and interviewee. However, the advantages prevail: Access to these persons would otherwise have been very difficult or impossible. The professional (not personal!) acquaintance not only facilitates the access, but also the process of gaining trust and rapport, which can otherwise be a massive problem when interviewing elites (Mikecz 2012; Empson 2018). Due to the existing relationship, the interviewees accepted the author a priori as “knowing”, although he is not a lawyer himself. Mikecz (2012) describes this position as “informed outsider” as most effective in an elite interview situation. Empson (2018: 6) also encourages this approach to focus on building rapport, trust and commitment as opposed to “the neopositivist’ approach (...) (of) minimizing the researcher influence and other sources of bias” and states that this “is a far more effective method for obtaining high quality data”. Two means helped to maintain the necessary critical distance: First, the unspecific opening question (“tell me something about your PSS”), so that the interviewees don’t try to match the interviewer’s expectations. Second, the fact that the analysis itself is based on interview transcripts, reduced to “a series of anonymized text fragments in an analytical software programme (so that) my critical distance is re-established” (Empson 2018: 9).

3.4 Summary

This chapter explained why this study uses individual, semi-structured interviews and thematic analysis as methods. It was shown that these methods are consistent with the epistemological position of the author and are better suited for the research questions and the specific environment of this study than other

available methods. The data collection and analysis procedures were described in detail, to ensure the trustworthiness of this study by enhancing credibility and dependability (Lincoln and Guba 1985; Creswell 2013b). Benefits and risks of using computer assisted qualitative data analysis software were discussed. Finally, some ethical considerations were explained, which are “important characteristic of a ‘good’ qualitative study” (Creswell 2013a) too. Another criterion for the quality of a qualitative study is the extent to which it is pragmatically useful (Locke 2000), which is specifically important for a DBA thesis. This aspect will be covered later in the discussion chapter 6.

Chapter 4: Findings regarding perceived advantages and disadvantages of PSS-archetypes

This thesis looks at the influences and interactions of interpersonal perceptions with economic aspects of profit sharing systems from the perspective of law firm partners. The results of the research, stemming from 15 interviews with law firm partners, are presented in the following two chapters. This first findings chapter summarises the advantages and disadvantages of the different profit sharing system types, as perceived by the interviewees. In chapter 5 afterwards, specific findings regarding the topics of trust, fairness and motivation in relation to the PSS type are presented. Together they form the basis for answering the first two research questions: What understanding of trust, fairness and motivation do law firm partners have? How does this understanding link to their specific profit sharing system? The two findings chapters concentrate on direct outcomes of the interviews and have the main purpose to substantiate key analysis points with quotes from the interviews. There is some ‘discussion along the way’, but the major part of the discussion will follow in an own chapter thereafter. This allows combining findings from all areas into one framework. The discussion chapter 6 will also compare the findings with the literature; therefore, references are kept to a minimum here in the findings chapters. Chapter 6 then concentrates on the third research question: Which profit sharing models suit best to specific given structures of law firms and the individual interests of their partners?

The findings chapters contain quotations from the interviews that informed the analysis. To ensure credibility and to give some context, all quotations are followed by a source reference in the form “[Alias name]: [Transcription paragraph], [PSS type]”. The notion “Martin: 15, Pure Lockstep” for example refers to paragraph 15 in the transcript of Martin, who works in a law firm having a Pure Lockstep profit sharing system. The name of the interviewee also refers to Table 4 (overview about interviewees) on p. 35, which gives the additional context information that Martin is male, in his late 50s, a partner for about 30 years, has a management role in his law firm and is partner in one of the “smaller” law firms of the top 100 in Germany. All interviews were conducted in German; the quotes were translated by the author. Appendix IV (p. 165)

contains example extracts of two original transcripts, together with a translation in English; parts that are used below as quotes are highlighted.

There is no royal road

Almost all partners agree on one basic notion: There is no one ideal solution for profit sharing in a partnership, as several interviewees express:

“I think, there is no ideal system, probably. You can find something you don’t agree with in any system” (Howard: 139, Merit)

“All basic systems have their difficulties. All.” (Jennifer: 83, Modified Lockstep)

“Every profit sharing system results from balancing different conflicting goals. This is why ‘the’ system does not exist in the end.” (Oliver: 3, Merit)

Even those partners who are very satisfied with their own PSS concede that their system has limits, either with respect to the individual satisfaction or to outcomes or consequences of their system. For that reason, many firms do adhere in principle to a PSS archetype like Lockstep, but include elements from other systems. For example, Jennifer said:

“I don’t believe in these systems in their pure form, doesn’t matter if it’s Lockstep on the one side or Merit Based on the other. Rather, each of these systems must have correctives in some way.” (Jennifer: 11, Modified Lockstep)

Analysis revealed two sorts of explanations for this: First, a pure system could lead to perceived unfairness, at least by some partners in some situations. Second, the mechanics of a pure system could have an unwanted steering effect, e.g. on motivation or effort level. The following chapter will look at these perceptions related to fairness and motivation in more detail.

In addition to this generic agreement, most partners also agree on several *specific* properties of the available PSS archetypes, which will be summarised in the remainder of this chapter; it will be mentioned explicitly where they disagree. These properties will be discussed in the following structure: On the

one hand, certain *preconditions* are favourable for a specific PSS. These preconditions could be either *context specific*, e.g. the firm size, or they could rely on *values and beliefs of the partners*. On the other hand, each PSS has *consequences*. These could be seen either as *positive* or as *negative* – or at least risky. To account for the latter, *mitigation strategies* such as system modifications are typically used.

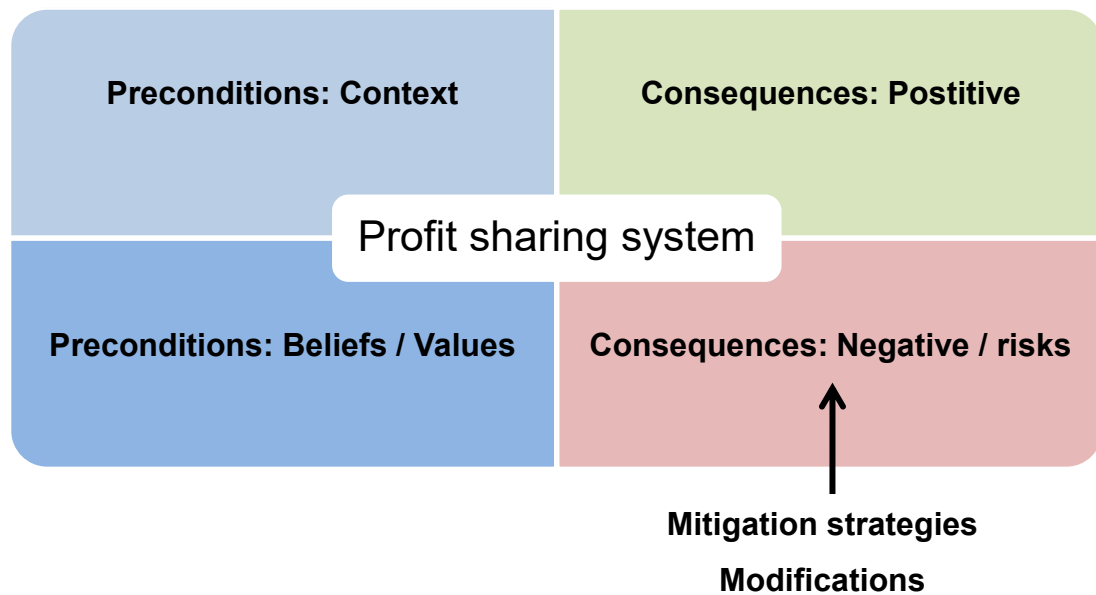


Figure 6: Structural model to discuss PSS archetypes, adapted from Strauss and Corbin's (1990) paradigm model

There are no direct causal relationships. A specific contextual situation does not necessarily imply a specific PSS, and a specific PSS does not always have the same positive or negative consequences. In addition, a specific property might be precondition *and* consequence at the same time. For example, as explained in detail below, Lockstep systems *need* long-term oriented partners, but they also *encourage* long-term orientation.

The arrangement of the quadrants suggests a discussion “from left to right”, starting with the preconditions. However, asked neutrally to “tell something about their PSS’s”, almost all interviewees started with the mechanics, and then talked about the *consequences* of their PSS. Only later in the interview, and often only after specific questions, they commented on *preconditions*. Following that priority, each of the next sections will use the same narrative sequence and also start with a quick reminder of the mechanics of the system

(for more details see chapter 2.2, p.10ff), describe the consequences, and then reflect on the preconditions. Quotes will be given to support the respective findings.

Naturally, most partners have the best knowledge and explicit opinions regarding the profit sharing system they actually experience in their own law firm. Some of the partners interviewed however expressed a clear opinion also regarding the potential alternatives, e.g. because they have former experiences, or because they were actively engaged in PSS type discussions, e.g. in a management role. The following findings therefore contain “insider perceptions” as well as “outsider perceptions”.

The next four sections will describe findings for each of the PSS types relevant in this study: *Pure Lockstep*, *Modified Lockstep*, *Merit Based* and *Eat-What-You-Kill*. The remaining three systems described in the literature (cf. chapter 2.2), *Equal Share*, *Corporate* and *Subjective* did not occur in the interviews (the reasons for that will be discussed in chapter 6.4, p. 111 ff.).

4.1 Pure Lockstep

In a Pure Lockstep system, the profit share is only dependent on the tenure of the partner, and the individual share increases automatically every year or at regular intervals (every second or third year).

Advantages

The most often mentioned advantage of Lockstep was that it facilitates the cooperation between partners and specifically the internal reference of clients, because each partner profits from additional firm income, irrespectively of who actually does the work. This encourages specialisation, which in turn leads to higher quality of work and thus increased customer satisfaction, because every lawyer can concentrate on his or her strengths. In addition, cross-selling is encouraged; and both finally lead to higher total firm income. As Imogen puts it:

“Cooperation increases the size of the cake.” (Imogen: 33, Merit)

Another benefit is that long-term thinking is encouraged. The individual share increases automatically year per year, so it pays off to stay with the firm for a long time, and every partner should be interested in the long-term success of the firm. This causes a significant stability, both Lee and Martin reported:

“This is the core of the whole, that we had all the success. Specifically the tremendous personnel-wise stability - during the 20 years the firm exists now, never a partner left.” (Lee: 9, Pure Lockstep)

“Lockstep is much more beneficial... look, the firm is now 90 years old or so, and such a stability I think you will not get with another system” (Martin: 23, Pure Lockstep)

An interesting revelation is that a Pure Lockstep system has another inherent value: No discussion between the partners is needed with respect to the annual share. As we will see below, this is a painful issue with other systems.

Downsides

On the other hand, partners from all systems agree that a Pure Lockstep system uncouples financial rewards from individual performance, which might raise the risk of free riding. For partners with *other* PSS's than Lockstep this risk is seen as relevant, because for these interviewees it raises both fairness and motivational issues:

“(Our merit system) is fairer than Pure Lockstep. That’s like the American NBA. The older the players are, the more they earn, even though they cannot deliver the performance any more. You have to ask if that is fair.” (Howard: 82, Merit)

“In a Lockstep system, where you just climb up, the longer you are there, you need to have other incentives that people continue to work and not just take.” (Howard: 17, Merit)

However, partners who *have* a Pure Lockstep system do not always see that this risk actually occurs:

“The question could be asked whether everyone remains sufficiently motivated to make an effort in the same way as they used to. Especially with increasing age. I would see that as an abstract danger, as an ab-

stract risk. But I don't see it realized here. Not recognizable. But abstractly speaking, yes, it is. Depending on the personality structure of the involved" (Keith: 15, Pure Lockstep)

One reason suggested for that is a strong peer pressure to perform, as Martin said:

"This is what makes the Lockstep system work (...) it's the guilty conscience what you have. There is no formal lever, yes, but you feel the pressure (...) you don't want to stand there with a bad fee income (...) if you act reasonably normal, you will always try to get out of that situation. This is pressure, but to be honest, as a lawyer you must be able to cope with pressure." (Martin: 115, Pure Lockstep)

Partners from Merit or Eat-what-you-kill systems also see this inherent pressure in a Lockstep system, and praise that *their* systems reduce this peer pressure effect.

A third area of perceived disadvantages is related to the mechanics of a Pure Lockstep system. Middle-aged partners, often being in their most productive stage of life, earn significantly less than more senior partners. This is accepted, but typically mitigated by a ceiling for senior partners: After a period of typically 10-20 years, the share does not increase any more. However, the shares of all younger partners still increase, so that the 'value' of the constant share of a senior partner *decreases* over time. This can only be compensated by constant absolute growth and ever-increasing productivity, according to Edward, a senior lawyer being partner for 22 years:

"The food chain has to produce more and more, otherwise Lockstep is an expropriation" (Edward: 17, Eat-What-You-Kill)

Contextual preconditions

Analysis showed that the most important precondition for a Pure Lockstep firm is the *homogeneity* of the partnership. It is much easier to accept that all partners (at least of the same tenure) earn the same, if their performance is comparable, than if there are huge differences. Homogeneity can be described from different perspectives. Three perspectives were mentioned as particularly

important: the performance *motivation*, the performance *capability* and similar *moral values* between the partners. Martin for example thought:

“You will not get the same turnover from partners in employment law compared to a notary. You either tolerate that spreading or not, and you can only tolerate that if the group has consistent value judgements (...) we need social compatibility also on the partner level“ (Martin: 13/48, Pure Lockstep).

However it is explicitly *not* seen as necessary to have homogeneity in the range of services or the chargeable rates, said Martin:

“When I punish someone who is as enthusiastic, as performance-capable as someone else, only punish financially because he works in an area which is not as profitable, but I do think this area is necessary for the firm as a whole to perform in the marketplace, then this would be unfair in our view, yes, because he equally contributes to the appearance of the whole firm, and enables the higher earning partner to have business.” (Martin: 21, Pure Lockstep)

This view is strongly connected to the fairness ideal of egalitarianism as described in chapter 2.3.

As explained above, Pure Lockstep systems need constant growth, if they want to avoid that the income of senior partners diminishes. This means that new partners have to enter the partnership regularly. A very careful partner selection process is needed to still ensure homogeneity, which in turn slows down the growth rate. Pure Lockstep firms tend to grow slowly. For the same reason, new partners are most often appointed from inside the firm. This ensures that they share the firm values and are very good known to their new peers. Lateral hires, i.e. the move of someone who has a senior position in another law firm, are very rare.

Further contextual preconditions for Pure Lockstep seem to be a *limited number* of partners, and typically the concentration in only *one office*. The reasons for that are connected to beliefs and perceptions, specifically trust.

Values & Beliefs

Trust in the fellow partners is the key for a Pure Lockstep PSS. For example, Lee said:

“The system assumes that all agree that nobody abuses the system in one’s own favour, because there are no performance based parameters. It is based strongly on the fact that all partners perceive it mutually as fair.” (Lee: 10, Pure Lockstep)

The next chapter 5 will show that this fundamental trust between partners stems from *knowing each other*. Knowing each other in a high performance workplace environment means working together, and this is the reason why Pure Lockstep works best when the number of partners is limited. It is possible to know 20 or 30 fellow partners through joint projects or at least regular business lunches, but not 200. For the same reason, Pure Lockstep firms often just have one (main) office in one city. It is rather difficult to connect to partners who work in different cities:

“Out of sight, out of mind... this is a trivial truth and true also between lawyers (...) when you can easily seek talks with someone, it is easier to maintain and cherish consistent value systems (...) actually the one-city-policy might be essential for (our) system.” (Martin: 26, Pure Lockstep)

The other essential ingredient for Pure Lockstep systems is the minor importance of money as a motivator. Partners from Pure Lockstep systems unanimously emphasise that money is not a key motivator for them:

“I’m a guy who doesn’t make his motivation to do a decent job dependent on how much money I make in detail (...) It bears a meaning, of course. Sure. But it doesn’t have much importance for the question of motivation and how much effort I make here. (...) it doesn’t really matter to me whether I have a small number of points score or a large number. For whether I’m making an effort here or not” (Keith: 23, Pure Lockstep)

“The original approach of this law firm was that people came together who wanted to be different from Big Law. Who said that they do not need the second yacht or the fifth cottage and work until 11 pm each day (...) if you want to optimise your personal income, this law firm is wrong for you.” (Lee: 17, Pure Lockstep)

“I was here for some years, when another law firm offered twice the income I had, but I did not leave. The reason: You do not work in a law firm like this just for financial reasons.” (Martin: 41, Pure Lockstep)

It would seem that the motivation of Lockstep partners is primarily intrinsic, as opposed to the extrinsic motivational effect of money. This effect will be discussed further in the discussion chapter 6 (p. 108ff.).

And naturally in a lockstep system, partners have to share the belief that increasing seniority is equivalent to increasing proficiency, leading to increasing profitability, as Keith explains:

“(Our Lockstep system) considers that / assumes that (...) the increasing professional experience, the increasing seniority also goes along with (...) additional capabilities in subject-specific regard, also in personal regard, that was constitute such a lawyer personality.” (Keith: 25, Pure Lockstep)

Figure 7 (below) provides a summary capturing the preconditions and consequences of a Pure Lockstep system. The next section will cover Modified Lockstep systems, which naturally share many preconditions and consequences with Pure Lockstep systems. Those items that both systems share are printed normal, whereas items specific for *Pure* Lockstep are *italic* in Figure 7.

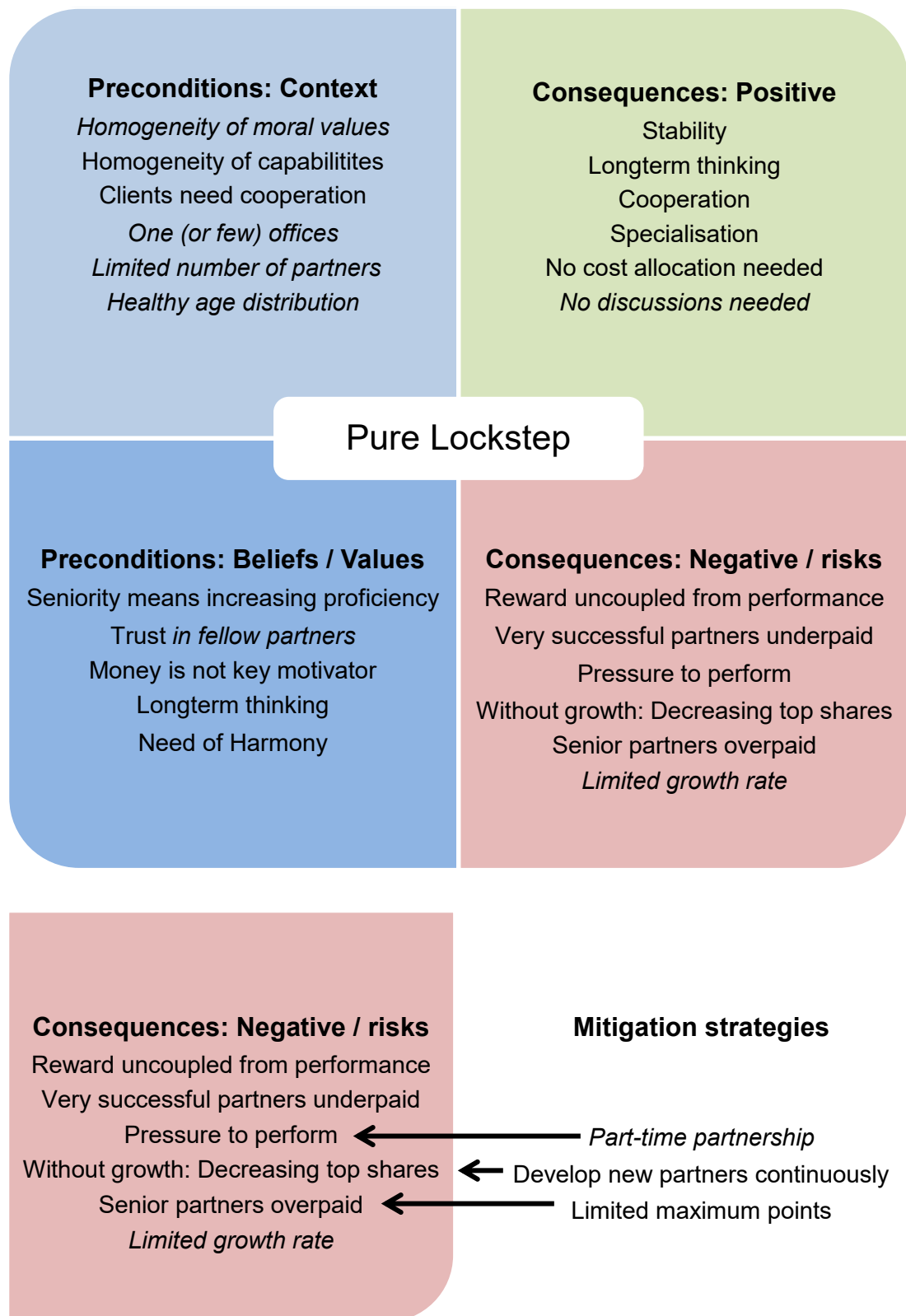


Figure 7: Summary of Pure Lockstep systems, showing preconditions, consequences and typical mitigation strategies for negative consequences
Items in *italics* are specific for *Pure* Lockstep, as opposed to Modified Lockstep.

4.2 Modified Lockstep

A Modified Lockstep system is based on the same tenure principle as a Pure Lockstep system, but with a key change: Elements are added that account for individual performance (see chapter 2.2, p. 10 ff). They range from additional bonus payments for very successful partners, ‘gate decisions’ only two or three times in a partner’s life (decision points for further increase of profit share) to regular assessments of each partner’s performance every year, accompanied by an adjustment of the individual share points.

Advantages

The intended advantages of a Modified Lockstep system are very similar to those of a Pure Lockstep system: Cooperation and internal cross-referencing is encouraged, specialisation leads to increased quality, and both leads to increased turnover. The system supports long term thinking and stability.

Downsides

One advantage of Pure Lockstep is however absent: Whereas Pure Lockstep systems save the pain of performance discussions between the partners, discussion is unavoidable with the modifications. Typically, the performance monitoring in a Modified Lockstep system is done through a remuneration committee. Interestingly, partners see the need for such monitoring, but more as a necessary evil than something desirable, like Nigel:

“This is necessary, It’s not nice, that’s for sure, especially the talks you have to hold, but it’s necessary because otherwise you are subsidising people and do not get them to acquire [new clients] but just administer what they have.” (Nigel: 61, Modified Lockstep)

It would seem that the reason for the modifications is *to mitigate the inherent downsides* of a Lockstep system, and only indirectly to provide an advantage. Different modifications address specific downsides:

- Monitoring and controlling procedures, as well as ‘gates’ for further partner promotion aim to reduce the risk of free riding and an inappropriate amount of non-profitable work .

- Bonus schemes want to reduce the risk that very successful partners feel underpaid and leave the firm.
- The inherent pressure to perform is reduced specifically for underperforming partners, if they accept a reduced profit share level or a slow-down of their increase.

Contextual preconditions

Homogeneity of performance is also seen as a facilitator for Modified Lockstep systems by Nigel:

“(We are) uniform in our levels of turnover. If we had an outlier, what you call a ‘rainmaker’, we probably would not satisfy such a person, and I could understand that, but unfortunately or thankfully we don’t have that problem.” (Nigel: 33, Modified Lockstep).

However, other law firms with a Modified Lockstep system do allow some spread in the profit share by assigning bonus payments to exceptionally successful partners. Generally speaking, the modifications allow for more heterogeneity in the partnership, and the stronger the modifications are, the more dissimilarity in the partnership is possible. This issue is discussed in detail in chapter 6.2 (p. 101).

Values & Beliefs

Analysis showed that the basic beliefs compatible with a Modified Lockstep system are similar to those of a Pure Lockstep system, but again moderated by the respective modifications. The system is still based on the assumption that partners that are more senior are generally more profitable and/or deserve a larger profit share than junior partners for other reasons. Long-term orientation is needed, as junior partners know that they will have to wait for larger shares.

Trust in the fellow partners is still important, but the level and type of trust is different from a pure system. It is not necessary any more to trust that every single fellow partner will always perform at maximum level, because sanctions and adjustments are possible. The trust object, the trustee, shifts from the individual fellow partner to the committee which makes those decisions.

Figure 8 gives a summarising overview about the preconditions and consequences of Modified Lockstep systems.

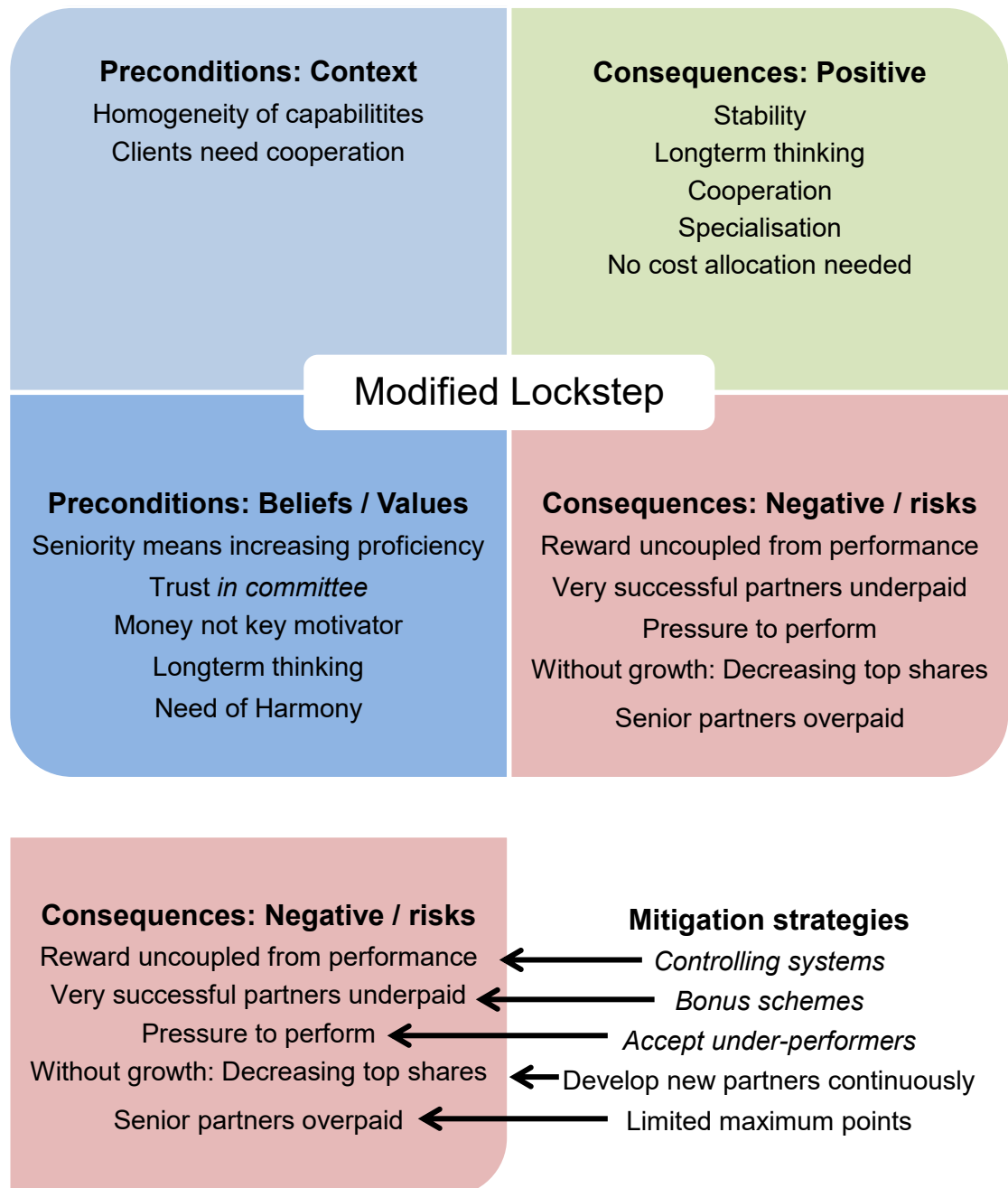


Figure 8: Summary of Modified Lockstep systems, showing preconditions, consequences and typical mitigation strategies for negative consequences
Items in *italics* are specific for *Modified* Lockstep, as opposed to Pure.

4.3 Merit Based

In a Merit Based system, the performance monitoring is the *basis* of the profit distribution, as opposed to a Modified Lockstep system, where performance figures might be used to *modify* the Lockstep more or less, but are not *key* for the profit share.

Advantages

A Merit based system tries to depict the different aspects of successful entrepreneurial acting in the profit share of the individual: It's important to work hard and generate fee income, but also to acquire new clients, to care for existing client relationships, or to manage the firm. All these activities are financially recognised and thereby encouraged. This is seen as an advantage compared to Eat-what-you-kill-systems that only look at the fee income. The consideration of acquisition (selling) power is specifically important and typically the second most important measure, beside the amount of fees charged. Howard, a Merit proponent, sees the resulting effect on collaboration as even stronger than in Lockstep systems:

“The main benefit [of our PSS] is that we have collaboration. In law firms where they don't share the profits from a specific mandate between those who do the work, those who manage and those who landed the account, where they allocate the profit to just one of these buckets, the team spirit is not encouraged (...) in my old firm we had a lockstep system which led to collaboration, but [here] it's of higher intensity.” (Howard: 33, Merit)

The intended results of cooperation are the same as for Lockstep systems: Cooperation leads to more cross-selling and fosters specialisation which in the end increases total turnover.

An interesting revelation is that a major and unique advantage of a Merit based system is seen by interviewees in the fact that it provides individual partners freedom to decide themselves how and how much they work:

“I can allow myself to serve an unprofitable client just because I want to.” (Imogen: 37, Merit)

“It gives the individual more freedom, because you can decide to work less without having a bad conscience, because in return you get less money.” (Oliver: 22, Merit)

This allows the partners to adjust amount and intensity of work to their individual circumstances, without having to renegotiate with their fellow partners or having a bad conscience. This is therefore a major advantage compared to Pure Lockstep systems, where this is an issue (cf. p. 50 f).

Downsides

Analysis points out three specific downsides related to Merit based systems. The first is linked to the principle that the system is based on a regular performance review. For example, Howard experienced:

“It’s certainly stressful to be evaluated every year... if you know that you are monitored every year.” (Howard: 85, Merit)

Even though there is no direct justification pressure in case of bad performance, as it would be the case in a Modified Lockstep system, the mere fact that figures are compared and ranking lists evolve could lead to pressure.

The second downside is reduced individual security, compared to a Lockstep system. If a partner has a bad year, maybe health problems, this will affect the individual income immediately. In the interviews, this was seen by Jennifer as a disadvantage compared to her system:

“The Lockstep system is one that allows me to sleep quietly to a certain extent (...) while in other systems, in Merit Based systems it is usually the case that I have to take care of myself much more. In case of doubt I will not be caught by the crowd if I have a bad year somehow” (Jennifer: 15, Modified Lockstep)

The third problem is that a Merit Based system tries to translate different aspects of entrepreneurial acting in a formula – but in the end, just one figure has to be the result: the profit share. The exact mechanics of calculation become important. In this situation, discussions about the adequacy and fairness of formulas and rules are unavoidable, and every single decision could be challenged (and lawyers are trained in doing so), as Diane said:

“It is well known that is very difficult to measure and you can quarrel endlessly about who did when acquire a new client and who was responsible for the new mandate...” (Diane: 69, Modified Lockstep).

Imogen also challenges their actual formula:

“I would change (the formula) a bit (...) would make that a bit more favourable on a negotiating base (...) change this three year rule” (Imogen: 115, Merit)

Howard compared the calculation mechanics from the actual law firm and the firm before:

“In my old firm, the acquiring partner became 100% (of the acquisition bonus) forever. That did not foster collaboration... did not make sense.” (Howard: 49, Merit)

These are all examples for the difficulties that arise from the necessity to agree on *specific* calculation rules in Merit based systems.

Analysis further shows that Merit based law firms try to mitigate these downsides with two basic strategies:

1. Some firms smooth the swings by calculating averages, e.g. for two or three years:

“For every year, the average turnover of the last three years is calculated, so that slumps could be compensated” (Imogen: 3, Merit)

2. To account for individual cases and address the adequacy issue, some firms allow or even require an individual negotiation of shares in a specific mandate between two partners (especially regarding acquisition), instead of using a formula. This is what Imogen suggested in the quote above and the way Howard’s firm actually does:

“(Two partners) negotiate (the acquisition distribution) individually between them. They are the only ones who can settle that (...) I think that this individual thing is good, but has the downside that there is a lot of fuel for conflict” (Howard: 47, Merit)

Contextual preconditions

A Merit based system is suited to a *heterogeneous partnership*. Both very strong and below average performers can coexist in such a system without causing too much discussion. It is also possible to consider different market conditions, e.g. concerning different areas of law, or between different countries, as Howard describes:

“As a partner you have a certain market value. Some partners are in great demand, because they work in a specific area of law, and we want them in our law firm. (...) Look at the football premier league. It’s the same there. The players who are in great demand earn much more. That’s totally fine.” (Howard: 29, Merit).

For that reason, such systems might be introduced at a stage when the heterogeneity of the firm exceeds a certain level, as Oliver experienced:

“We had a Lockstep system (...) That worked well for long years (...) then we experienced like other law firms that the fee income of partners diverged in different advised industries or different areas of law (...) as long as we were in a range of plus/minus 50 percent (...) it was no problem at all. But then (...) we had revenue differences with a factor of four (...) and that leads to dissatisfaction, and the risk was too high to get quarrel into the partnership” (Oliver: 5, Merit)

Values & Beliefs

The most important precondition is that the Merit Based system is based on the assumption that *money* (as an extrinsic motivator) *is the key motivator* for partner behaviour. Therefore, the profit share should reflect the individual performance, the effort and the labour directly and as accurate as possible. Merit Based systems intend to foster cooperation, as well as Lockstep, and the intention to collaborate has also to be a common value in such a system, as Howard said:

“I believe that people who basically want to work for themselves don’t stay in such a firm for long, in such a (Merit based) partnership ... because they don’t feel good at the end, if all others (cooperate) around them” (Howard: 25, Merit)

The difference to Lockstep is that a Merit based system encourages cooperation by providing a *direct bounty* and assumes that the prospect of increased

individual profit will help encouraging partners to collaborate. Howard gives an example for that:

“When I say ‘OK, let’s sell the IP law to my colleague so to say, give the client to my colleague’, and know that half of it will give me credit later on, then I have an incentive to do so” (Howard: 33, Merit)

This issue of extrinsic motivation will be discussed in more detail in chapter 5.3 (p. 84).

Figure 9 (below) gives a summarising overview about the preconditions and consequences of Merit based systems.

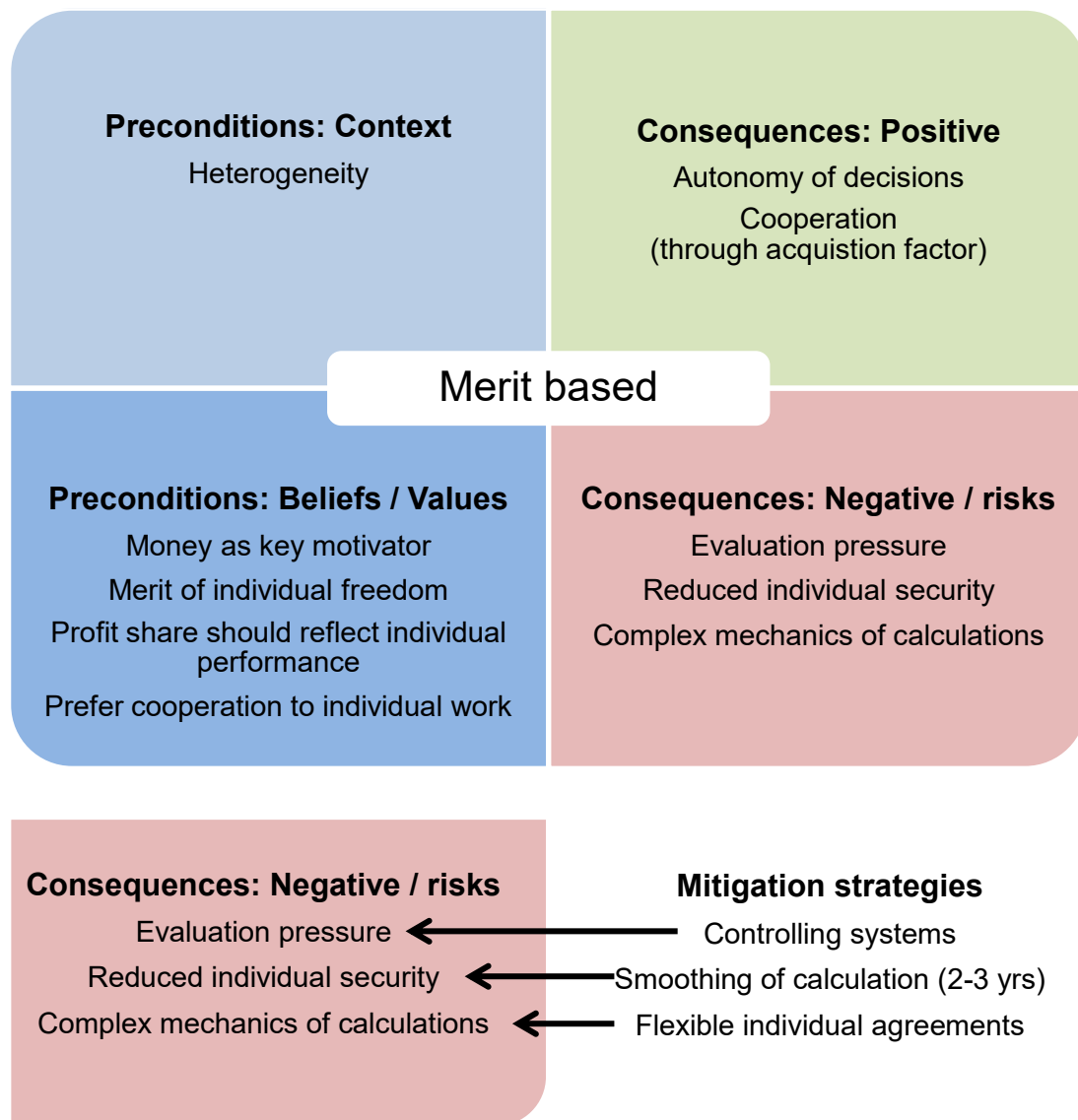


Figure 9: Summary of Merit based systems, showing preconditions, consequences and typical mitigation strategies for negative consequences

4.4 Eat-what-you-kill

In an Eat-what-you-kill system, every partner basically receives the revenues which he or she generated with their team, minus direct costs. Shared costs like office rent or IT costs are allocated.

Advantages

Due to this principle, the earnings of one partner are relatively independent from those of the other partners. This entails three main advantages: First, it allows a huge diversity of partner performance. It is easily possible to have

very strong and less strong performers in the firm, be that because of personal capabilities or the respective area of law.

“Someone can certainly be a partner, even if I [don’t expect him to] increase his turnover every year by 10% (...), but he is nevertheless in the field of law that we want to offer (...) and he has perhaps also still good ideas (...) I find that very important in this system.” (Edward: 23, Eat-what-you-kill)

It remains at the discretion of the partners how much they work, which gives them a great autonomy of decision. It is therefore easier for them to account for individual circumstances, like changing work-life-balance needs.

At the same time, partner reviews and mutual controlling, which are typically seen as a pain in Lockstep firms, are not necessary:

“[In a lockstep system,] the more I pay for presence time, the more I have to control that was is done by other means. We do that directly with money.” (Francis: 107, Eat-what-you-kill).

Another perceived advantage of the direct link between individual work and profit share is the motivational aspect. Partners in Eat-what-you-kill law firms have a strong incentive to work hard and try to improve their business (as long as they are motivated by earning more money, cf. chapter 5.3). As with the Merit based system, it is again at the discretion of each partner, how they achieve that, by working more hours, negotiating higher rates, or invest in acquisition that is more individual. In this study, there was however no indication that this encourages very successful individuals (‘rainmakers’) to prefer Eat-what-you-kill systems to other PSS’s.

Downsides

Lack of cooperation between partners was seen as the key disadvantage, consistent with the literature. Two reasons were mentioned for this: The first is related to motivation - there is no direct financial benefit for a partner to cooperate with others. They will only profit indirectly from referring clients to colleagues, because the client might be happier or will not ask another law firm for help. At the same time, they risk that the client might *not* be satisfied with the colleague (which backdrops to themselves), or - even worse - might be

more satisfied compared to themselves, so that they might lose future business to him or her. This risk rises, if partners in a firm share the same work area. This is different from the other systems, where the partners participate directly - either due to increased overall profit (Lockstep) or through a formula that considers acquisition (Merit based).

The other impediment for cooperation is the heterogeneity of personalities itself:

“[Our system] leads to a type of partnership which is very amorphous in their performance abilities, in the way they work. Maybe sometimes an obstacle for cooperation. Not that people are not willing to cooperate, but because they can afford it, they potter around everyone on their own, whereas systems that pay for collaborative effort lead to more endeavour to work together.” (Edward: 23, Eat-what-you-kill)

A related downside is the risk that this PSS might encourage partners to accept work for which they are not optimally qualified, which leads to reduced quality and resulting reduced client satisfaction. Partners actually *having* an Eat-what-you kill-system however report that they are aware of this risk, but do not actually observe it in practice, Francis describes:

“Quality becomes weaker... you encroach on other’s territory... these are typical charges or fears, but we can say that they did not come true in practice.” (Francis: 7, Eat-what-you-kill)

Other than in Lockstep systems, there is no equalising effect if a partner has a ‘bad year’, for whatever reason. One mitigation strategy for that is that profit share calculation is done for a two-year period. One partner however argued that it is the individual responsibility to provide for the future or pay for insurances.

Contextual preconditions

For the reasons explained above, Eat-what-you-kill systems are suited for a *heterogeneous partnership*. Other than in Merit based systems, it might even be counterproductive when partners share the same area of work.

Because this system does not foster and does not need cooperation, it is suited for situations in which partners do not know each other well, e.g. when partners who did not work together before decide to form a partnership (the relation between knowing each other and cooperation will be discussed in chapter 5). Some specific areas of law also provide situations where cooperation between partners is not needed in the day-to-day business, e.g. where lawyers are primarily working as insolvency administrators.

Values & Beliefs

Eat-what-you-kill systems have a strong individualistic orientation, and depending on the individual perspective, this is seen either as good or not:

“Eat-what-you-kill is very egocentric.” (Howard: 141, Merit based)

“(The PSS) is a mirror of the partnership, that we appreciate our individual free space and individual presence. (...) Every man is the artisan of his own fortune, and that is what we want. (...) Previously I was dogmatic, thought that people have to be what the system expects (...) to concede this variability, I find that totally liberating.” (Edward: 41-55, Eat-what-you-kill)

Another principle is a certain short term orientation. Profits are typically distributed every year; there is no inherent long term incentive. This is however *not* always seen as a disadvantage compared to Lockstep systems with their long term orientation. Edward for example expressed:

“This is a central question (...): Do you have certainty that this firm can ‘give back’ in five or ten years? We don’t know. That’s wisdom of age. To count on the fact that the firm still exists in ten years, where do they take the confidence from? That’s why a man like me, who can’t believe, is not in a big firm like that. (Edward: 77, Eat-what-you-kill)

The key technical difference compared to Merit based systems is that the turnover is basically the *only* measure for the profit share. This requires the belief that all other efforts are not important or that they finally result in more or less turnover anyway, as two interviewees explain:

“Our shared dogma is that you receive approximately that share of the profit that you generated as turnover before. When this is the result of a system, that’s totally fair, you know.” (Edward: 41, Eat-what-you-kill)

“The argument that someone who is honorary professor, who publishes is beneficial for the firm... all these arguments are not under debate any more. We cannot buy something from that.” (Francis: 19, Eat-what-you-kill)

Finally, the often-mentioned advantage of such a system, that it encourages effort and performance, is based on a key assumption about motivation: That *money is the key motivator* to perform:

“With money, you can always lure people the most, if the system is transparent and predictable (...) I believe in the management of the individual by individual incentives” (Francis: 99, Eat-what-you-kill)

This is in a strong contrast to the beliefs of partners regarding motivation in a Pure Lockstep system, as explained above.

Figure 10 (below) gives a summarising overview about the preconditions and consequences of Eat-what-you-kill systems.

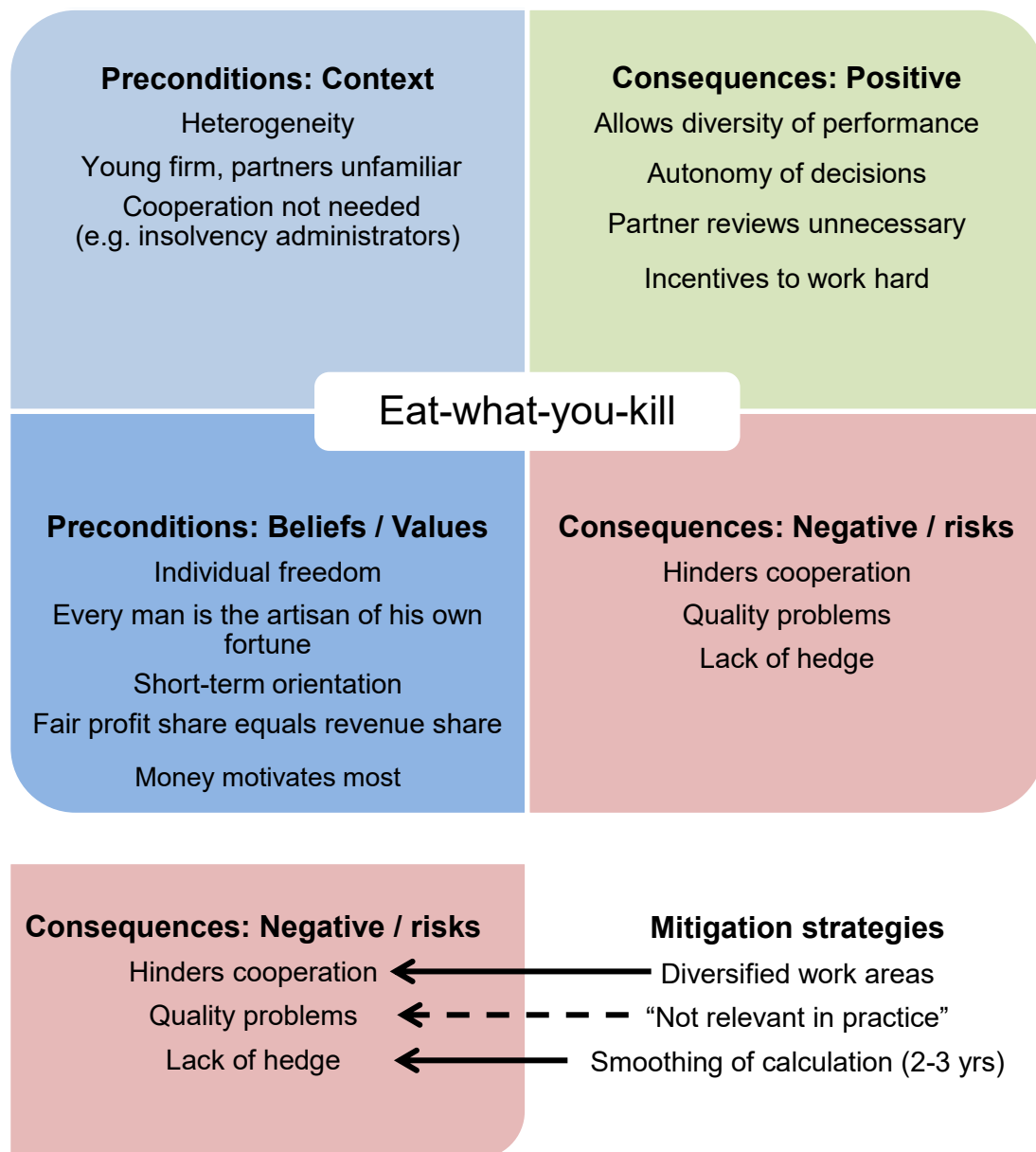


Figure 10: Summary of Eat-what-you-kill systems, showing preconditions, consequences and typical mitigation strategies for negative consequences

4.5 Summary

The partners interviewed agree that there is no ideal, general solution for profit sharing in a law firm partnership. This chapter showed how the four main PSS types are perceived with respect to the preconditions of the system and to the consequences each of them has; Figure 7 to Figure 10 in this chapter provided a summarising overview about preconditions and consequences of each PSS type.

Some consequences of specific types of PSS are generally accepted. When choosing or not choosing a specific PSS, partners accept that they have or have not that advantage (and vice versa its disadvantages). The choice depends on the priority the partners give to that advantage compared to others. Partners differ in their *valuation* of a specific advantage, but agree on the *mechanics*. An example for that is the time horizon: The interviewees agree that Lockstep systems (both pure and modified) are long-term orientated, whereas Eat-what-you-kill systems are short-term oriented. Partners know that and appraise what they actually have. The same applies for contextual preconditions like the homogeneity of the partnership: It is agreed that Pure Lockstep systems need a homogenous partnership, whereas Eat-what-you-kill systems favour heterogeneity.

For other characteristic of PSS, partners *disagree* in their perception of the mechanics. Here, they typically agree on an intended outcome, e.g. that a PSS should provide incentives for good and hard work. They differ however in how best to achieve that outcome, and this difference is often related to beliefs and values. For example, Eat-what-you-kill- and Merit-advocates assume that *money* is the *key* motivator for a law firm partner, whereas Lockstep-proponents emphasise that this is not the case.

The next chapter will look in more detail into the areas of beliefs and values, starting with the topic of trust, which was mentioned as a key issue specifically for Lockstep systems.

Chapter 5: Findings related to trust, fairness and motivation

This chapter presents the findings related to the three beliefs and values that are part of the research questions: Three sections concentrate on findings related to trust (5.1), to fairness (5.2) and to motivation (5.3), followed by a summary (5.4).

The previous chapter took a perspective starting from each profit sharing system and identified preconditions and consequences, one type of preconditions being the beliefs and values for the respective PSS. This chapter concentrates on the latter, and another perspective is added. Now the beliefs and values are the starting point, and it will be shown what partners think about each of them, and how those thoughts, beliefs and values compare and relate to their respective PSS. At the end of this chapter, Table 7 (p. 91) contains a summary about the key findings.

5.1 Trust

This section summarises the findings on trust. Three major themes that resulted from the analysis are described: Trust is essential in some, but not all profit sharing systems; trust requires *Knowing the Others*; and there is a relationship between trust and transparency.

Trust is key to most PSS types, but not for Eat-what-you-kill

Forming a partnership, or joining an existing one, requires a certain trust in the fellow partners as such. Becoming a partner is usually a long-term decision, and most lawyers doing so worked hard towards that goal for several years. In the partnership, they do not only share economically the fruits of their work, they also work together on a day-to-day basis, and they are legally liable to each other for the individual legal work they provide to their clients¹⁴. It's therefore unsurprising that many interviewees, but not all, declare trust to be a key ingredient of their partnership, e.g. Howard, Imogen and Lee:

¹⁴ The extend of liability depends on the specific legal form of the partnership

“In the end, these (profit sharing) systems only work if people trust each other. If not, without that prerequisite, no system works.” (Howard: 113, Merit)

“Between us equity partners, we have such an appreciation that we trust each other blindly.” (Imogen: 85, Merit)

“We all know that this trust relationship is more important than everything else for the continued existence of this system.” (Lee: 15, Pure Lockstep)

But this view is apparently not common to all law firms. It would seem that there is a connection between the general level of trust in the fellow partners and the PSS type: Whereas the topic of trust was explicitly mentioned by partners from Lockstep and Merit systems, trust was not mentioned *at all* in any of the interviews of partners from Eat-what-you-kill law firms. An explanation for that might be that trust is not a prerequisite in this system, as the own profit share is (almost) unaffected by the work of the other partners, and trust is therefore not seen as important in the context of the PSS. The practical outcomes of this important aspect of trust in relation to the PSS will be returned to in the discussion chapter 6.

Another indication for a strong relationship between PSS type and the importance of trust in the fellow partners already appeared in the previous chapter, where it was shown that trust in the fellow partners seems to be a key precondition for Lockstep systems, especially for Pure Lockstep (see p. 53). If for example a Pure Lockstep partner decides not to work as much as the other partners anymore and to live at their expense, there is little they can do. Partners therefore *have to trust* each other that this will not happen. Lee for example argued:

“There is effectively no sanction mechanism. As long as someone does not do something really harmful, which would allow a termination without notice of the partnership, the threshold is very high. There is no possibility to get rid of someone, except if you dissolve the whole partnership. Only at the price of self-destruction you can get rid of someone.” (Lee: 15, Pure Lockstep)

Such trust is not needed in an Eat-what-you-kill system, where a partner who is working less basically reduces his or her own income, not that of the other partners.

Trust requires Knowing the Others

Analysis showed that many interviewees agreed on one prerequisite for their trust: *Knowing* the persons they trust, i.e. the trustees. Two factors influenced whether this knowledge is available: First, the absolute number of partners and second whether they work in the same office, i.e. spatially together or not.

Lee for example stated:

“The trust, the mutual trust, is the limiting factor and I think that it’s basically impossible to sustain a trust relationship -which is necessary to keep this system stable - with an unlimited number of people. I think it would even not be possible with (our) 16 partners in two offices (...) a second location would be harder to cope with than three additional partners” (Lee: 13, Pure Lockstep)

Oliver described the effect that the increasing number of partners had upon the trust between them:

“As long as we had seven or eight partners (...) we knew what the others did. Now with 15 partners in two floors, it happens that I don’t see some for weeks. Previously unthinkable - we met every day -, (...) and this weakens trust, according to the motto “Is he working enough at all or is he sitting in the sun?” (Oliver: 11, Merit)

Martin confirmed the same issue:

“As long as you have people around you, have a manageable size at one location, where you can always seek a one-to-one talk, you are able to have a common value system” (Martin: 27, Pure Lockstep)

A third factor which facilitates *knowing each other* and thereby fosters trust might be whether the partners share the same area of law, and therefore know more about the details of each other’s work. Edward, who was in a Lockstep system years ago, reported:

“We are too many partners now. We were only six then. But much more important than the number was that we had a consistently structured

and commonly served client base. Everybody could appraise what the others do, why they do it, how they do it (...) when we grew, we didn't know enough about each other anymore." (Edward: 3, Eat-what-you-kill)

Other interviewees, like Lee and Martin however reported a trustful situation even though the partners work in different areas of law with different clients.

It would seem that *knowing each other* is key for *trusting each other*, and that different precedents exist to facilitate this knowing. The absolute number of partners and working together in an office are important, but there might be other context-specific factors facilitating or hindering familiarity between partners. This is consistent with the standard trust model of Mayer et al. (1995), introduced in chapter 2.4 (p.19). In that model, trust is a result of the perceived trustworthiness of the trustee, and the trustworthiness increases with repeated interaction (Lewicki and Benedict Bunker 1996). This relationship between knowledge about fellow partners, based on ease of frequent communication and resulting in trust, will be discussed further in chapter 6.2 (p. 100).

Trust and financial transparency

Another aspect mentioned in the context of trust was the extent to which the financial figures are transparent between the partners. An interesting discovery is that *only for partners in Modified Lockstep systems* this transparency is debatable from the start. Some of these partners argued that transparency should be limited, e.g. Bob, who currently holds a management position in his law firm. He argued that providing financial figures draws too much attention and hinders the partners from working efficiently:

"I think a not unimportant factor for profit sharing systems and their handling is how transparent the firm handles its figures and in which cycle. I think one should show restraint. That is, not hide them, but also not distribute them every month (...) everybody should know where he stands, but not peek at the others (...) it distracts the colleagues." (Bob: 145, Modified Lockstep)

Gareth, also a partner with a management role, gives another argument *against* transparency, related to the (perceived) limited economical capabilities of his peers:

“We have total financial non-transparency, deliberately. Only the practice group leaders receive figures regarding their practice group. The two managing partners know the total figures of the firm. Reason: If you provide single figures to the partners, you will always have misunderstandings, because lawyers typically cannot interpret figures correctly.” (Gareth: 4, Modified Lockstep)

Diane also saw a certain danger for the stability of a law firm due to transparency:

“I experienced the change from a normal Lockstep without disclosure of the individual partner contribution - and the rapid dissolution of the law firm in close proximity of time to the conversion of the system [to full transparency]” (Diane: 31, Modified Lockstep)

At the same time, she also *disliked* non-transparency:

“Meanwhile we are quite good positioned, it is relatively transparent. (...) And honestly speaking, I like that, because the alternative would be that only two or three see that. If you were lucky to be in a circle of very wise people, that wouldn't be a problem and bring about peace, but wise people are rare.” (Diane: 31, Modified Lockstep)

The idea of “wise people” whose decisions one should trust without knowing the details is also challenged by Jennifer, a younger partner also without managerial experience:

“Whether I'm bright or not, I don't want to be patronised. This assumes that I had an incredible trust in my management that they do the right things. That has to be built, that trust. It does not appear just like that.” (Jennifer: 37, Modified Lockstep).

However, Jennifer also recognised a tension related to transparency:

“You might approve or not – let's say we have a certain non-transparency here in the firm. But if you really strive, you can get to the bottom of the figures (...) On the other hand, I lived in a complete transparent system before, and I have seen to what stark dissonances this can lead, if you don't have a reasonable culture of conflict.” (Jennifer: 33, Modified Lockstep)

It is worth remarking that specifically partners with a managerial role praised financial non-transparency in a Modified Lockstep system. It is arguable that it

is easy to claim non-transparency *for the others* from a management position with full personal access to all information, but both Diane and Jennifer are examples of partners without management responsibilities who still favour a degree of financial non-transparency for the sake of 'peace'.

In contrast, partners in both Eat-what-you-kill and Merit based systems concur unanimously that *their* systems are transparent, e.g. Francis, Imogen and Oliver:

"[In Lockstep systems,] the arbitrary distribution of profit, like what a committee does, this is all very non-transparent (...) This is my personal opinion, I'm a big friend of transparency, because I experienced it differently" (Francis: 77, Eat-what-you-kill).

"I like that it [our PSS] is transparent." (Imogen: 16, Merit)

"It's not about the 'trust' question alone, it's more about the mixture between trust and the question of fairness (...) if someone decides to work 40 hours per week [and someone else 70], the results are obviously different. And this touches the aspects trust and fairness. If this is communicated openly, then there is the trust that nobody does something secretly." (Oliver: 63, Merit).

It seems that the idea of 'trust' is not used here in the classic sense as 'the willingness of a party to be vulnerable to the actions of another party' (Mayer et al. (1995), see p. 19), but as an absence of betrayal. Trust is seen as the *outcome* of the PSS and how the communication works, not a *requirement*, as it is the case in the (partly) non-transparent Modified Lockstep system.

In other words: Trust in the context of financial transparency is of increased importance only in Modified Lockstep systems, but not in the other PSS types. The trustees (the persons who are to be trusted) are the partners who make the actual modification decisions specific for Modified Lockstep. They are typically elected and form a group usually called a remuneration committee. Gareth reported that in their firm, the partner remuneration committee is consequently called 'trust committee' (Gareth: 6, Modified Lockstep).

In all other PSS, transparency is also an issue, but not in the context of trust, but as an aspect of *fairness*, as could be seen in the statement of Oliver above.

The next subsection focuses on fairness related issues and later the discussion chapter will come back to the issue of transparency (6.5, p. 118).

Summary of findings on trust

This section showed three major themes related to trust that were identified in the interviews. First, the importance of trust is different, dependent on the PSS: Trust seems to be very important for Pure Lockstep systems, of use in Modified Lockstep and Merit systems, but not so in Eat-what-you-kill systems. Second, *knowing each other* seems to be a prerequisite of *trusting each other*, and there are some antecedents which facilitate knowing each other, particularly a small number of partners and one (or a small number of) physical locations. Third, there is a connection between trust and the level of financial transparency, which is specifically important in Modified Lockstep firms.

5.2 Fairness

The perception of fairness varies significantly between the interviewees and matches in general the principles of the respective PSS.

Fairness is a key element for every PSS

Generally, the fairness of profit sharing as such is seen as a very important ingredient of a successful PSS, because otherwise unhappy partners might leave the firm. Christopher and Edward for example explained:

“If you want to survive as a large partnership, you *must* have a reasonably fair system, otherwise you would not sustain in the market for more than five years. Because meanwhile it’s common practice that lawyers change their law firm, even if they are partners.” (Christopher: 7, Modified Lockstep)

“In the end, the system must lead to everybody feeling themselves treated fairly.” (Edward: 11, Eat-what-you-kill)

Francis however is an exception. In his firm, profits are distributed strictly according to the fees individually earned, and he used that as an explanation for the fact that fairness issues are not discussed openly:

“Cynically I would say that no one dares to use fairness related arguments, because this law firm, this might be typical for us and similar law

firms, pretend to be very economical. There is no large room for such discussions” (Francis: 40, Eat-what-you-kill)

Implicitly however, fairness is seen as relevant even in this system; the Eat-what-you-kill system as such is seen as providing the fairest way to split profits, as will be discussed below.

Fairness is always considered as subjective

Several interviewees from different PSS stress that there is no *objective* fairness, but that fairness is dependent on people’s individual value systems and dependent on perspectives and circumstances and is therefore subject to ongoing re-evaluation and sometimes re-negotiation:

“Fairness depends on your value system, and in our firm apparently the value of the whole entirety is rated much higher than the focus on individual performance. I think there is no absolute fairness.” (Lee: 87, Pure Lockstep)

“I suppose every partner in our firm would claim that what he is advocating is a fair model. It always depends on the perspective. And I see things partly different than senior partners.” (Imogen: 133, Merit based)

“You should not treat profit sharing systems dogmatically. They should accomplish that every partner thinks they are adequately considered. That means, to my experience, that you have to tweak the PSS every few years. (...) The most important point is that one can talk if [you have the feeling that] you have much more performed than you got this year (...) and then you sit together and talk until everybody says yes that’s fair.” (Edward: 3/23, Eat-what-you-kill)

A fair system should always be based on *performance* (results)

All partners interviewed, even those partners from Pure Lockstep systems, said that a fair profit sharing system should be based on *results*. Analysis showed that there are however important differences in the details. The distinctions come in when looking at three different dimensions:

1. Is a fair system based *only* on turnover or *also* on other results?
2. How are results defined and measured- are there only quantitative or also qualitative measures?
3. What is the time horizon to assess results?

Turnover is everything vs. Other results count too

Edward and Francis, both from Eat-what-you-kill-systems, were of the opinion that *only* turnover is an adequate measure for results, and that basically no other aspect should be considered when sharing profits:

“We would call it fair if let’s say you contribute 15% to the firm’s adjusted turnover, than you can’t just go with 9% of the profit, and also not with 24%, but you float around 15%. (...) Our shared dogma is that if you get approximately the share of the profit which you generated, than this is totally fair.” (Edward: 23/41, Eat-what-you-kill)

“Certainly that is the question that pops up in Eat-what-you-kill systems again and again: Is turnover all that counts? Is that really just? We had discussion about management tasks (...) or a professorship (...) these arguments come back, but between us [partners] they are fully discussed as irrelevant. We can’t buy something from that. ” (Francis: 19/21, Eat-what-you-kill)

Howard and Jennifer also argue that turnover is the key element, but see that in addition other aspects might also be important for a fair share:

“It must not be that partners who basically perform on the same level are rated totally different. You would need solid arguments that someone who contributes financially the same is compensated differently (...) you start with the turnover. What does he contribute to the turnover? And then you start to adjust.” (Howard: 87, Merit)

“What I would definitely change [in our PSS] is on what basis the adaption parameter are calculated. They are [currently] not calculated according to turnover, but to the work done, without considering how many hours were actually charged and paid (...) I would change that and look at what did we charge. Or even better: what did the client actually paid. ” (Jennifer: 57, Modified Lockstep)

Only quantifiable results count vs. Qualitative results are important too

These additional aspects could be quantifiable, or not. In Merit based systems, there might be additional calculations as Howard reported:

“Of course turnover is important, but it’s about the overall contribution to the firm. And to measure that, it’s not only the turnover; there are also credits for, say, the acquisition of clients.” (Howard: 5, Merit)

Christopher in contrast explicitly stressed that *qualitative* factors should also be part of the modification decisions they make in their Modified Lockstep system:

“The sum of all contributions, and that is quantitative *plus* qualitative, should more or less be equivalent to the profit share the partner gets” (Christopher: 18, Modified Lockstep).

Short term vs. Long Term perspective

Regarding the time horizon, there is also a clear difference between the fairness perceptions of interviewees from different PSS types. Edward for example argued strongly for a *short term* perspective:

“Every system must lead to a fair result in every single year, because it’s like a confidence trickster to say ‘don’t be pathetic if it’s unfavourable for you now, but in six years from now you will be there’. If in six years you are still here or two people died with cancer or the four most important clients went broke, nobody knows.” (Edward: 35, Eat-what-you-kill)

In contrast, interviewees from Pure Lockstep systems emphasise a *long term* perspective on the relation between results and profit share. This is inherent in the Pure Lockstep system as such, but also valid in the context of comparing the results between two partners with similar seniority, according to Keith:

“I think it's fair that someone who has just become a partner with not as much professional experience as someone who has been a partner for eight years or ten, that he earns less at the present time, but nevertheless has the certainty that (...) something accrues, if one has been a partner for several years.” (Keith: 25, Pure Lockstep)

“I would therefore, at least for manageable periods of time, where differences in turnover arise, not come to the conclusion for myself that it is immediately unfair now (...) (if) that would stretch over many years, then yes, then it would possibly no longer be according to my understanding, possibly no longer fair and equal.” (Keith: 27, Pure Lockstep)

Table 6 (below) gives a summarising overview how the three depicted dimensions appeared in the interviews, and in which profit sharing systems. In addition to the quotes above, other occurrences are included (letter refers to the initial of the interview partner, figure to the paragraph in the transcript).

A PSS is considered fair, if	Pure Lockstep	Modified Lockstep	Merit based	Eat-what-you-kill
...profit depends <u>only</u> or <u>also</u> on results	Also (K:27,M:21)	Also (A:129,C:7,J:57)	Also (H:5,O:7)	Only (E:23/53, F:19)
...performance is measured also <u>qualitatively</u> (quantitatively anyway)	Yes (K:27,M:21)	Yes (C:18,G:5)	Sometimes (H:87/95,I:5) No: (O:7)	No (F:19)
... the time horizon is <u>long, medium</u> or <u>short</u>	Long (>8y) (K:27, L:71)	Long to medium (4-8y) (C:30/48, J:10)	Medium to short (3-4y) (I:3/21)	Short (1-2y) (E:35)

Table 6: Fairness and performance measuring per PSS type:
Different dimensions are typical for certain PSS types

Are the circumstances relevant for a fair profit distribution?

In those cases when interviewees think it's *not only* quantitative performance results that should determine the profit share, they typically mention *effort* as an important subjective measure to assess if the profit shares are seen as fair or not. Partners are not seen as being responsible for external circumstances that lead to lower performance; therefore, profit share should not be affected. Martin and Keith, both from Pure Lockstep, explain:

"[Our] law firm has to include parts from different areas of law to succeed on the market as a whole. If I'm going to punish someone now financially just because he is working in a not so profitable area, which I seem necessary for the firm to perform on the market, that would be unfair in our point of view (...) because he is enabling the business of the more profitable partners" (Martin: 21, Pure Lockstep)

"I would ask (...) whether everybody is making an effort. Because that would be an important criterion for me" (Keith: 27, Pure Lockstep)

Howard argues in the same direction:

"It just comes that we have to provide employment law as a commercial law firm (...) but it's structurally not possible to achieve high hourly rates. Our service would not be complete without, and exaggerated,

such a partner makes sacrifices by servicing that area of law. In my opinion, you have to count that in.” (Howard: 87, Merit)

In contrast, Edward uses the exact same example of providing employment law services with low hourly rates to argue that this should *not* influence profit sharing, and Francis also stated that they explicitly decided not to factor the ‘employment law issue’ in:

“Employment law may lead to justice, but not to turnover worth mentioning (...) you could argue it’s a result of the individual performance, if you can sell yourself in the market or not. Full stop.” (Edward: 5, Eat-what-you-kill)

“The employment lawyer can only charge 250 Euro per hour, whereas in transaction law, you can make millions. (...) But if you want to be a full service law firm, you need both. So for that matter you need to pay both fairly. (...) These arguments come back, but between us [partners] they are fully discussed as irrelevant. We can’t buy something from that. (Francis: 19, Eat-what-you-kill)

It is striking here that reflecting about the same situation, partners from Pure Lockstep law firms think that the circumstances (here the area of law) should *not* influence the profit share, whereas partners from Eat-what-you-kill firms are convinced that the area of law was the choice and therefore sole responsibility of the respective partner. The former corresponds to the fairness ideal of Egalitarianism, which does not hold people responsible for any factor determining production, whereas the latter contains elements of Libertarianism, in which people are seen as fully responsible (cf. literature section on fairness ideals (p. 16) and summarising Table 3, p. 17).

Fairness and financial transparency and the absence of arbitrariness

In the last section on trust, it was shown that in Modified Lockstep systems, and only in those, financial transparency was commented in a nuanced way, whereas in all other PSS, partners emphasise on it (see p. 74 f.). The arguments *in favour of* transparency were typically related to fairness, e.g. in the statement of Oliver (see quote on p. 76), or when Francis stated:

“I am an advocate for transparency, because I experienced it differently. I know profit sharing systems, where you get a handwritten table every

month and somehow at the end you get money, but you don't know why, how is that calculated. For me, justice means absence of arbitrariness and transparency.” (Francis: 77, Eat-what-you-kill)

This aspect of perceived fairness which relates to the procedures and the information provided, not the results, will be discussed in the context of procedural and informational fairness later in the discussion chapter.

Fairness versus harmony

Some partners in Modified lockstep systems argued *against* full transparency, for the sake of harmony in the partnership. It is important to notice that these partners do not argue that non-transparency makes the system fairer. To the contrary, they concede that there is a trade-off, but they value the peace-making effect of non-knowledge higher (to a certain extent), like Nigel:

“Merit based might be fairer by giving every partner what he generates minus costs, but this leads to intolerances, and for me personally it's of greater value to have peace in the firm instead of having these distribution battles every year.” (Nigel: 104, Modified Lockstep)

Jennifer was also aware of this conflict between peace and perceived procedural fairness through transparency:

“On the other hand, I lived in a complete transparent system before, and I have seen to what stark dissonances this can lead, if you don't have a reasonable culture of conflict.” (Jennifer: 33, Modified Lockstep)

Gareth, whose Modified Lockstep-based firm deliberately chose financial non-transparency, also argued that showing detailed figures leads to misunderstandings, but with a different argument: in his opinion lawyers frequently could not read figures correctly (see quote on p. 75).

Summary of findings on fairness

This section showed the major themes related to fairness that were identified in the interviews. Generally, a fair PSS is considered as very important for a law firm. Fairness is however perceived as subjective and based on individual value systems. All interviewees agree that a fair system should primarily be based on performance results, but differ in respect to three dimensions: if there should also be other factors in addition to results, if those additional factors

should be only quantifiable or could also be qualitative, and which time horizon the resultant assessment should be based upon. There is a distinct influence of the PSS type on the answer to these questions. Finally, transparency was often mentioned as a prerequisite of a fair PSS, but specifically for Modified Lockstep systems, a trade-off exists between transparency and a desire for harmony in the partnership.

5.3 Motivation

Becoming a partner in a top law firm takes years, is usually the result of hard work, and only some lawyers of all those who started working in that area accomplish that goal. The interviewees all did. It is therefore unsurprising that the general motivation level of the interviewees is very high, and that they consider this a matter of course, like Nigel and Imogen:

“The motivation has to be there, that’s basically a prerequisite. If one wants to become partner here, you have to make sure that he wants to push the firm like the others” (Nigel: 213, Modified Lockstep)

“A certain inward urge, some ambition do we want to see from our equity partners, and a willingness to achieve.” (Imogen: 69, Merit)

There is an inherent extrinsic motivational effect based on peer pressure in these quotes (see also Martin’s quote, p. 51), that will be discussed later on.

Beside this general motivation level however, the analysis of the interviews showed two different and more specific areas of motivation: *Money* and *feeling comfortable*. This section looks at motivation through money first and then at motivation through well-being factors. This distinction is also consistent with the literature (cf. chapter 2.5, p. 21), where money is typically seen as an *extrinsic* motivator, whereas motivation factors based on perceptions of autonomy, competence and relatedness to other group members are defined as *intrinsic* motivators (Deci and Ryan 2000).

Extrinsic motivation through money is always important

Almost all partners interviewed agree that money is an important motivational factor for first joining and later performing in a top-level partnership. This is stated either explicitly, e.g. by Francis and Diane below, or implicitly, e.g. when

Bob answers the question “How happy are you with your PSS” by referring to his individual income:

“Well, me personally, I come off well with it economically. I have no reason to complain” (Bob: 28, Modified Lockstep)

“With money, you can always lure people best, if the system is foreseeable and transparent.” (Francis: 99, Eat-what-you-kill)

“Money is a very, very strong factor, money and ego.” (Diane: 119, Modified Lockstep)

It is however not the *absolute* amount of money which is primarily relevant for the motivational impact. Indeed, there seems to be an absolute *minimum* that a partner expects to receive. This minimum is already technically embedded in Pure and Modified Lockstep systems, because there is always a minimum level of shares for a partner (e.g. 20 points), but the idea of a minimum share could also exist in Eat-what-you-kill-systems, as Edward reported:

“Because we are a partnership, we said that there is a lower limit. If someone is a partner, he must get a minimum profit (...) a partner should always earn more than a salaried lawyer” (Edward: 15, Eat-what-you-kill)

Above that minimum level however, while keeping in mind that for the partners interviewed, this level is far above average German income levels (and even above those of the entirety of all lawyers in Germany), the absolute amount is not always relevant as such:

“The question is: do I have 40 or 80 thousand Euro more or less in my pocket. I think there are people for which that would be relevant, for me it's not.” (Imogen: 37, Merit).

“People met here who said they don't need a second yacht or the fifth cottage” (Lee: 17, Modified Lockstep)

Money as a proxy for power and reputation (an intrinsic element)

However, that does not mean that the potential of earning even more money does not motivate any more. Instead, the *relative* share compared to other

partners might become more important than the absolute share, as Jennifer reported - and Andrew complained about:

“What motivates me in a good year is that I can pat myself on the back and say: “I have made so much turnover this year, I am so much better with this turnover than so and so many partners around me”. That motivates me, to be honest, more than what I get in return. I define success by that.” (Jennifer: 13, Modified Lockstep)

“If they get a lot, they are important a lot (...) it’s scary how the need for admiration is so important. There are a lot of neurotics along the way.” (Andrew 149-151, Modified Lockstep)

In other words, money still motivates, not as such, but as a *proxy to power and reputation*. This is also immanent in the phrase “money and ego” in the quote above from Diane (119). Diane, though not being in a management position herself, concedes that

“as management, you have to make sure that all modifications in sensitive areas, and this includes the ‘money honour’ - reputation is always included - that you don’t risk that (...) your structure got mixed up or loses incentives” (Diane: 11, Modified Lockstep)

These were quotes from Modified Lockstep partners. It seems that partners from *Pure* Lockstep systems see the same relationship between money and ego, but have a decidedly different valuation of it. Lee even considers it as dangerous:

“I can’t imagine a person, even those partners I know from other law firms [who have the needs for more money]. [They] don’t buy themselves luxury yachts and blow the money they earn. I think it’s more an ego thing, this ‘I compare, I know that I belong to those at the top of the food chain, just for my self-image’. These people, you must keep them out here, make-or-break.” (Lee: 67, Pure Lockstep)

In chapter 4 it was shown that specifically the partners in Pure Lockstep systems emphasise that money is *not* the key motivator for them (see quotes from Keith, Lee and Martin on p. 53).

Other than money, three areas emerged from the interviews as a potential source for motivation through feeling comfortable: satisfaction by doing exciting work, working together in a team, and having self-reliance. These are intrinsic motivators, as they are based on perceptions of autonomy, competence and relatedness.

Intrinsic motivation can be based on content-related satisfaction

Some partners emphasise that the work itself they are doing motivates them. This is typically expressed by opposing a choice between more money and more satisfaction, e.g. by Lee and Imogen:

“Nobody would be in the mood for doing mindless due diligence work or court collection proceedings, even if one earned twice the money. The feeling that we are doing exciting work is motivating for all of us. To strive for fascinating matters and to work on a quality level that enables such work, this is pushing us.” (Lee: 25, Pure Lockstep)

“The question is: Does it balance each other? The question if I’m exploited (...) because I have a lower share than others. If this is balancing with the joy doing the job and a good working atmosphere.” (Imogen: 17-18, Merit).

This does not mean that the interviewees see a *general* contradiction between profitability and job satisfaction – if both coincides, so much the better. But in those cases when there *is* a conflict, these partners make their choice towards satisfaction, at least sometimes.

Beside this satisfaction, which is generated by the content of the professional work, there is another source of intrinsic motivation based on the human relationships inside the partnership.

Intrinsic motivation can be based on relationships

Some partners believed that the relationships¹⁵ between them and their fellow partners play an important role for their motivation, like Diane and Howard:

¹⁵ All references to relationships in the interviews related to a *professional* relationship to other partners, not a *personal* relationship. This does not of course exclude the existence of personal relationships, but if they do exist, interviewees did not mention those.

“I’m lucky here, because the work here is really great fun for me, and the cooperation with my colleagues, not all of them, but many of them, and with the one or other client is enough motivation for me. I have to say, I like to work, and I feel appreciated and respected” (Diane: 56, Modified Lockstep)

“You need to like the people here, with whom you work. You don’t need to marry them, but somehow like them, I think. If you only see that as a business place for work and you don’t care about the people who work there (...) then this system will not function permanently.” (Howard: 113, Merit)

Almost at the opposite end, Andrew considered that he does not rely too much on most of his colleagues:

“I don’t need them. I’m not interested in them. OK, some of them are decent, but the major part (...) I don’t care about them (...) my perspective is at the maximum to simply stay here, because that’s the way it is. I don’t burn for it.” (Andrew: 303, Modified Lockstep)

It looks like relationship based motivation is only relevant for *some* partners. Diane and Andrew are partners in the same law firm, whereas Diane and Howard represent different PSS types; therefore, there is no indication that this type of motivation might be related to the PSS type.

Intrinsic motivation can also be based on self-reliance

A third element for non-monetary motivation is the extent of self-reliance that the interviewees experience. Some interviewees acknowledge that to a certain extent, partners even in the same firm have different capabilities and different needs, and that a PSS has to allow for that.

“You need to make sure that everybody has the freedom he wants to have or needs to develop optimally. Some do it this way, some do it that way (...) this possibility, you must ensure that everybody has that” (Nigel: 213, Modified Lockstep)

One or more of these three types of non-money related, intrinsic motivation factors could be found in all interviews, irrespective of the PSS type. It is therefore generally important for law firm partners to keep these factors in mind and ensure that the organisational environment allows for it, but they are not suited

to facilitate any decision regarding the best matching profit sharing system as such.

Summary of findings on motivation

All interviewees said that money – or more specifically: the profit share they receive - is a strong motivator. It seems however that not the absolute amount is most important, but the relative amount. The reason for that is that the absolute level is perceived to be rather high anyway, and that the profit share is seen as a signpost for power and reputation inside the law firm. Beside this motivation factor with both extrinsic and intrinsic elements, many partners said that there are non-money related, intrinsic factors that are relevant for their motivation: The satisfaction they get from doing the work itself, from positive relationships towards their fellow partners, other colleagues and clients, and strong perception of self-reliance in their position as partners.

5.4 Summary

In this chapter, the findings related to trust, to fairness and to motivation were presented and analysed as to whether and to what extent perceptions of the interviewees are connected to the profit sharing system. It was shown that trust seems to be a key element for Pure and Modified Lockstep as well as Merit based systems, but not so to Eat-what-you-kill systems. Trust requires *knowing* the other partners, and three factors could be identified that facilitate this knowledge: a relatively small number of partners, a physical proximity, and (sometimes) sharing the same area of law. In the context of trust, the need for financial transparency was found to be unopposed by partners from Merit and Eat-what-you-kill systems, but surprisingly to be debated by partners from Pure and specifically Modified Lockstep systems. Those partners saw a conflict between transparency and the need for peace and harmony in a partnership.

The perception of fairness seems to be strongly related to the PSS. The different answers to three hypothetical questions correlate to the PSS type: For it to be fair, should the profit share depend only on performative results, or also on other things? Should the performance be measured only quantitatively, or also qualitatively? And should the time horizon for such measurement be short,

medium or long? Another differentiating aspect of fairness is whether *effort* should be an additional criterion for profit share, as opposed to just performance-based results. Only partners from Pure Lockstep systems argued that way, and partners from Eat-what-you-kill systems actively objected to this.

Motivation was found to be primarily connected to money, i.e. the profit share received individually. Above a certain minimum level, money was however seen to be more important as a proxy to power and reputation relatively to other partners, the absolute level seems to be less important. Peer pressure also acts as an external motivator. Other than that, three aspects add to the intrinsic motivation of law firm partners: content related work satisfaction, the relationships to colleagues and the extent of self-reliance that the partners experience.

Key findings	See page
Trust is key to most PSS types, but not for Eat-what-you-kill	71
Trust requires Knowing the Others <ul style="list-style-type: none"> Knowing the Others is facilitated by physical proximity and low numbers of partners 	73
Trust and financial transparency <ul style="list-style-type: none"> Transparency is challenged only in Modified Lockstep 	74
Fairness is a key element for every PSS	77
Fairness is always considered as subjective	78
A fair system should always be based on <i>performance</i> (results) <ul style="list-style-type: none"> Difference between PSS's, if in addition other quantitative and/or qualitative measures should be considered Difference regarding long or short time horizon 	78
Are the circumstances relevant for a fair profit distribution? <ul style="list-style-type: none"> Eat-what-you-kill partners say no, others say yes 	81
Fairness and financial transparency and the absence of arbitrariness	82
Fairness versus harmony <ul style="list-style-type: none"> Modified Lockstep partners see a conflict 	83
Extrinsic motivation through money is always important <ul style="list-style-type: none"> Absolute sum is only relevant up to a (relative low) level 	84
Money as a proxy for power and reputation (an intrinsic element)	85
Intrinsic motivation can be based on content-related satisfaction	87
Intrinsic motivation can be based on relationships	87
Intrinsic motivation can also be based on self-reliance	88

Table 7: Summary of key findings on trust, fairness and motivation

Whereas this findings chapter concentrated on the first two research question regarding the understanding of trust, fairness and motivation, the following discussion chapter will put these findings in the context of the literature, integrate them with the findings on PSS types from chapter 4 and approach the more action-oriented third research question by introducing a framework to operationalise the findings.

Chapter 6: Discussion

This study has two research aims: first, to understand the influences and interactions of interpersonal perceptions with economic aspects of profit sharing systems from the perspective of law firm partners; and second, to develop a framework that helps partners in a partnership to choose the most appropriate profit sharing system in their specific situation.

In this chapter, the findings presented in the two preceding chapters are discussed in the context of the different bodies of literature introduced in chapter 2: Literature on law firm partnerships and specifically their profit sharing systems on the one hand (2.1 to 2.2), and literature on trust, fairness and motivation on the other hand (2.3 to 2.5). These bodies of literature provide the background to the first research aim: The understanding of the individual law firm partners regarding trust, fairness and motivation (cf. findings chapter 5), and the properties of the different profit sharing systems which are available - the technical properties as well as the perception of these properties from the perspective of the partners (cf. findings chapter 4).

In pursuing the second research objective, a framework will be presented as part of this discussion, which integrates the two parts. Following the epistemological position of the author rooted in pragmatism (cf. chapter 3), this framework “seeks to solve a problem” and “is about action” (Elkjaer and Simpson 2011). The problem to solve is that of the third research question: How to identify the best suited PSS for a given law firm and/or group of law firm partners.

The discussion is structured as follows: First, the general structure of the framework is introduced on a conceptual level, together with some examples to facilitate the general understanding (section 6.1). A detailed discussion of every part of the framework then follows (6.2 to 6.6). An example shows how to operationalise the framework (6.7). The final section (6.8) then moves the perspective from the individual person to the partnership and discusses the implications of choosing or changing a PSS.

6.1 A framework that integrates partner needs and PSS types

The underlying idea of this framework is that a profit sharing system must fit to the needs of the partners who decided to use that system to split their profits, if the system is meant to provide stability and enduring success for the firm. Many authors concede this implicitly (e.g. Gilson and Mnookin 1985: 390; Viney 2013: 43; Lienemann 2018a: 150), but are rarely explicit as to how exactly this fit can be evaluated and achieved. Stender for example concludes that “the profit sharing system has to follow the culture [of the partners], not the other way round” (2018: 138). Few would contest this statement, but it leaves open, what exactly ‘culture’ means, how partners could identify if they share the same understanding, and how they could determine if their PSS matches with their ‘culture’ or how they could improve that matching. Anderson, after providing a good overview regarding the mechanics of different PSS archetypes, finally recommends us to “gain a true reading of what your partners do and do not want in a compensation system”, but ends in advising to “ask an outsider (...) to facilitate a brainstorming session” to achieve that (2001: 11). There remains a gap between on the one side the insight that partners have different needs and on the other side the quite substantial knowledge about the available PSS’s.

A framework therefore needs to integrate these two perspectives: The needs of the partners with the exact properties of the available profit sharing systems (see Figure 11 below).

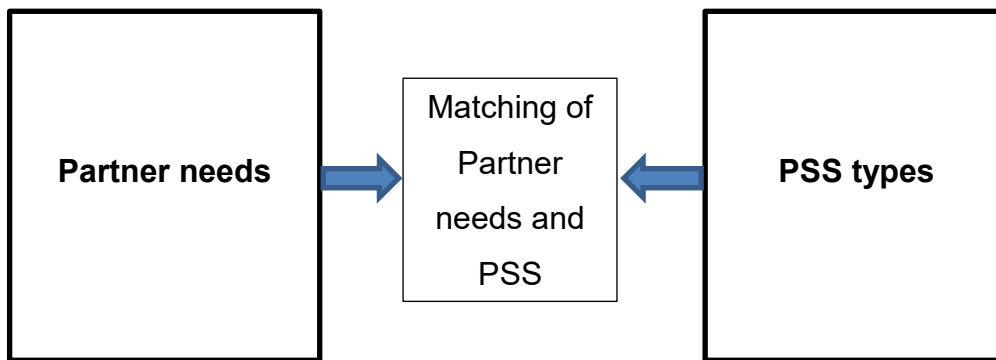


Figure 11: Overview about framework used to align law firm partner's needs and available profit sharing systems. The blocks will be explained in detail below.

For the left block in Figure 11 (Partner needs), the findings presented in chapter 4 have shown that the partner's needs can be discussed using two categories: Those needs which arise from their specific, or 'objective' contextual precondition, such as the number of partners and offices; and needs that are based on their individual values and beliefs, such as their understanding of fairness or the way they are motivated.

The contextual factors however do not describe or constitute a need as such, but only have an *indirect* effect through their influence on individual needs. An example for that is the influence of the number of partners on the trust level between the partners: An increasing number of partners usually has an adverse effect on the trust level between the partners, because they don't know each other that good anymore (cf. findings in chapter 5.1). The number of partners alone is not relevant for the choice of the PSS; the reduced trust level associated with a rising number of partners however is (this issue will be discussed in more detail below).

Figure 12 (below) summarises this concept.

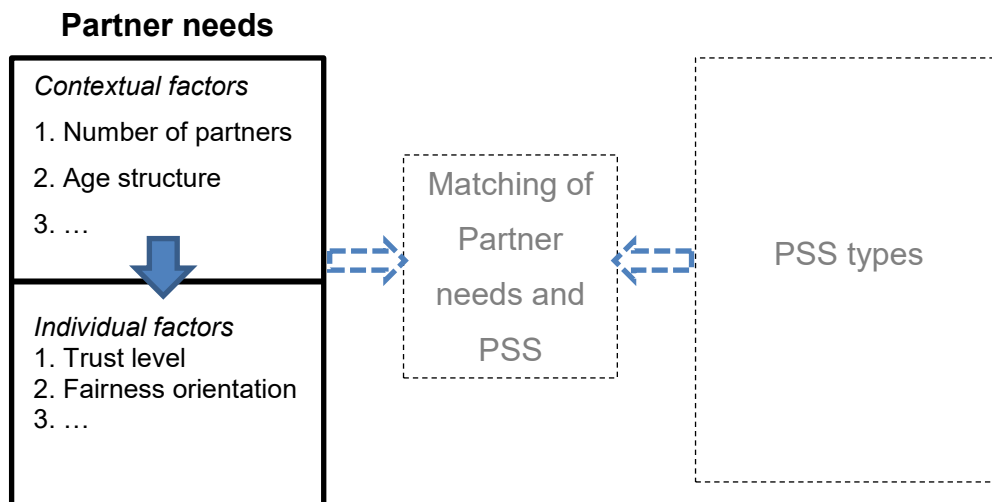


Figure 12: Examples for partner needs, distinguishing between contextual (external) and individual factors

The right block in Figure 11 (PSS types) also needs further classification, for two reasons: PSS *modifications* are relevant, and the PSS *characteristics* are more important than the mechanics.

PSS modifications are relevant

Findings as well as the literature show that most law firms *modify* the pure PSS types (Viney 2013; Wesemann and Kerr 2015; Schoen 2016); and different modifications can change the nature of a PSS quite considerably. It is therefore necessary to distinguish not only between the generic PSS archetypes (as summarised from literature in Table 1, p. 12), but to consider the typical modifications that are used in practice, specifically for those two archetypes that are *defined* by their specific modifications: Modified Lockstep and Merit based. This will be done below in 6.4.

Characteristics of PSS are important, not mechanics

In addition, the goal of matching the partner's needs with the PSS types requires another level of analysis. The PSS types and their modifications basically describe the *mechanics* of profit distribution. It is however not the mechanics that must fit to the partner's needs, but the *characteristics* of the PSS.

An example of such a characteristic is whether a PSS encourages or discourages internal client referral. Take for example a law firm with a Merit based PSS that measures and 'pays' explicitly for client acquisition to foster client

referral¹⁶. The interviewees did not express a need for this *measurement* as such (the mechanics), but for the intended *consequences* of that measurement (cf. findings in chapter 4.3, p. 59ff). They chose their specific Merit system (i. a.) because of the fitting characteristic ‘encourages client referral’. Other interviewees also wanted to have a PSS with this *characteristic*, but chose another PSS with a total different *mechanic*, having the same characteristic ‘encourages client referral’: Pure Lockstep.

It is therefore necessary to identify systematically the relevant characteristics that distinguish PSS’s and its modifications from the others. This will be done below in section 6.5. The result of including these additional two levels of analysis can then be aggregated in a matrix structure, with the characteristics in the rows and the PSS modifications in the columns. Figure 13 (below) gives an example for this structure, the final result can be found in Table 12 (p. 132) at the end of section 6.5.

¹⁶ Measuring and rewarding client acquisition is linked to client referral, because the separate measurement of acquisition is only relevant when the acquired clients are referred to and served by *other* partners. If every partner serves all acquired clients alone, there is no difference between measuring turnover only or measuring turnover *and* acquisition.

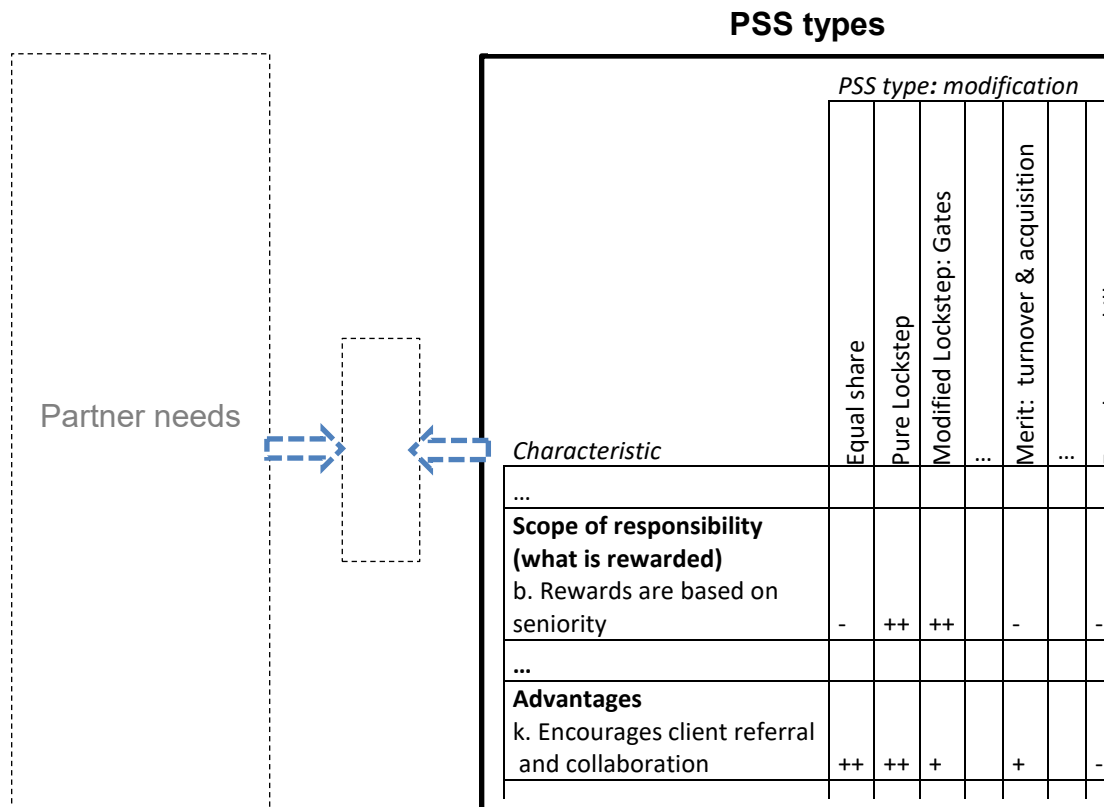


Figure 13: Examples for classification of PSS types

When matching Partner's needs with the PSS, the alignment should now happen between the individual partner needs and the PSS *characteristics* (the rows in Figure 13), not the PSS *types* (the columns). As a result, the best-suited PSS for a specific set of partners' needs is that PSS with the most matches between needs and characteristics. This matching process at the core of the framework is where in practice the discussion and the bulk of the work starts. An approach how to do that will be described below in section 6.6.

Figure 14 (below) shows a summarizing overview about the entire framework.

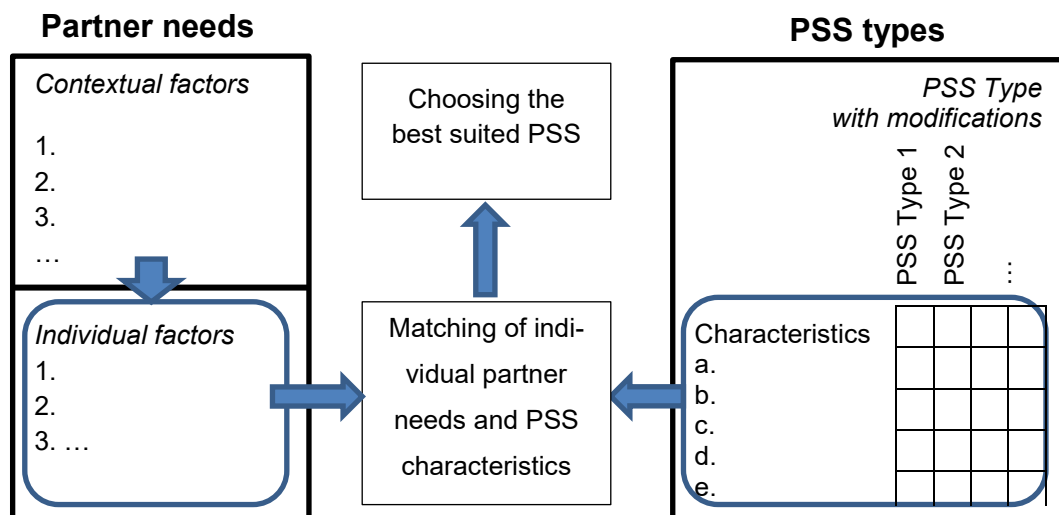


Figure 14: Complete framework to align law firm partner's needs with PSS characteristics, based on available PSS's and their typical modifications

This framework also helps to explain an effect known from the literature (Anderson 2001; Viney 2013) and findings (cf. quotes on p. 47): Many partners emphasise that no available PSS is perfect, even their own, even if they created it deliberately. This is explicable, because it is unlikely that any one system exists (with whatever modification) that has exactly that *set of characteristics* that would perfectly fit to any *one partner's exact needs*. The choice of a PSS therefore typically needs compromises, even if all partners would have exactly the same needs. In the real world, a second layer of compromises is usually added: Most likely, the partners that form a partnership do *not* have exactly the same needs, so that the theoretically 'best suited' PSS might vary from partner to partner. When the partners agree on one system, at least some individual partners need to make some more compromises.

From a practical perspective, the purpose of this framework is to help law firm partners in evaluating their existing profit sharing system and/or to choose a system or a modification that suits their purposes. The different components of the framework can be translated into *questions* that should be asked and eventually answered during that process:

1. What environment are we in?
2. What do I want as a partner?
3. What PSS types and modifications are available?

4. What characteristics do these PSS types have?
5. Which PSS characteristics match best with my needs?

Answering these questions finally enables the group to answer the big question:

6. Which PSS type/modification is best suited for us?

It is worthwhile noting that question 2 and 5 are asked from an individual perspective, whereas question 1 and specifically 6 take the perspective of the group, the partnership. Figure 15 (below) shows where these questions are answered in the framework.

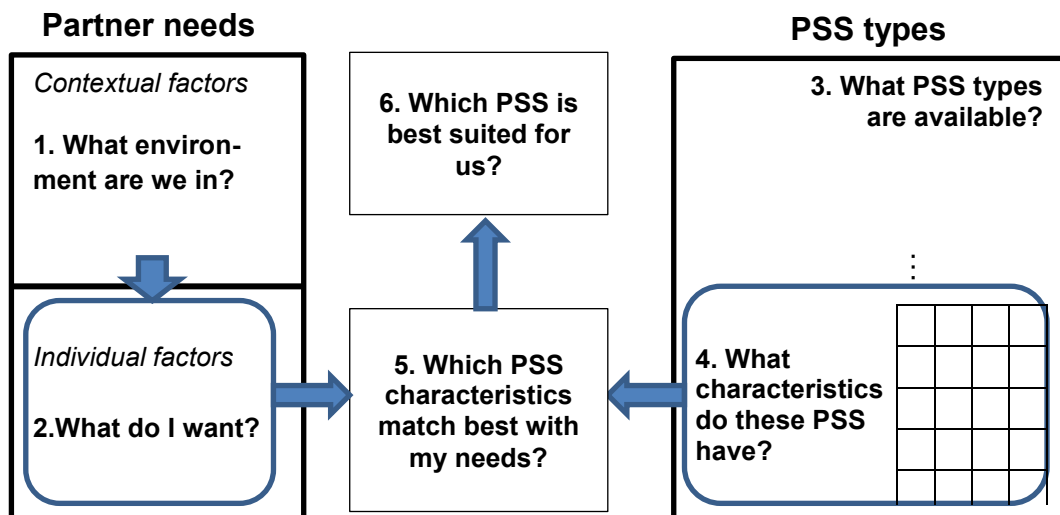


Figure 15: Framework structure represented by questions to be asked by partners during a PSS evaluation

In the following sections, the individual components of this framework will be discussed in detail: Section 6.2 discusses the contextual factors related to partner needs (question 1), section 6.3 the individual side of partner needs (question 2). In section 6.4 it is argued which PSS archetypes and modifications are available (question 3). Section 6.5 introduces the characteristics that seem to be relevant to the PSS choice and assesses how they are distinct for each PSS (question 4). In section 6.6, the individual needs will finally be matched with the PSS characteristics (question 5), and section 6.7 will give an example how to operationalise that approach. The big question 6, which PSS to choose as a partnership, is discussed in section 6.8.

6.2 Partner needs – contextual factors

Q1: “What environment are we in?”

This section argues that four main contextual factors are important: Number of partners and offices; Homogeneity of Partnership; Clients requiring cooperation; and Age structure of the partnership.

Number of partners and offices

The number of partners in the partnership is one of the most important factors that influence the needs of the partners, together with the number of offices (locations) in which these partners usually come together to work. Both numbers are important for the extent of the familiarity between the partners; they influence strongly how good the partners know each other (cf. findings in chapter 5.1, p. 73). Working together at one physical place typically allows people to meet regularly, either intentionally or occasionally when having lunch or walking around. When partners work in different locations, the acquaintance is much lower, summarised in Martin’s quote “Out of sight, out of mind” (p. 53). The absolute number of fellow partners is also a limiting factor for the mutual knowledge: The number of meetings or lunch breaks a single person can have with others is finite. The more partners the partnership has, the less likely it is that a single partner has face-to-face contacts with most of his fellow partners on a regular basis.

Knowing the other partners affects the trust level between the partners. According to Mayer et al.’s 1995 model, trust depends on the perceived trustworthiness that the trustor attributes to the trustee, the other partner (cf. Figure 1, p. 20). This trustworthiness depends on the ability, the benevolence and the integrity of the trustee that the trustor perceives. All of these factors depend on knowledge about the trustee and are supported by direct contact. Becerra and Gupta found “clear empirical evidence of the important role of communication in explaining perceived trustworthiness” (2003: 42), and Lewicki and Benedict Bunker (1996) showed the importance of *repeated* interaction over time for trust development, also confirmed by van der Werff and Buckley (2017). A relative small number of partners and a small number of offices are therefore typically associated with a higher general trust level between the partners.

Homogeneity of the partnership

Another important contextual factor is the homogeneity of the partnership. Greenwood and Empson (2003: 923) reason that for professional service firms (PSF) with relative similar work, where partners “share similar training and values”, it is much easier to build consensus than in a heterogeneous organisation. Harlacher and Reihlen (2014) also argue that the degree of homogeneity influences the “culture” of a PSF and also the choice of the PSS. They propose that “increasing heterogeneity of values and beliefs makes it more likely that firms will use eat-what-you-kill or scorecard [Merit based] instead of lockstep remuneration” (p. 139).

It is however difficult to define or evaluate the ‘homogeneity of values’ as such, but there are some contextual factors that influence the degree of homogeneity. Obviously, with an increasing size of the partnership the potential for heterogeneity rises, simply because more people are involved. Multiple offices, even more if in different countries, also increase the likelihood of heterogeneity due to the different cultural backgrounds of the partners. In Germany in particular, most large law firms with multiple offices merged only after the year 1989, when a law change allowed supra-regional partnerships for the first time (Kääb and Oberlander 2005). As a result, the local offices each have their own history and resulting from that often a specific culture different from other offices. The result is often a degree of homogeneity *within* one office, but not *between* offices of the same law firm. This can even lead to different profit sharing schemes per office: Francis for example explained that each office of his firm allocates the profits separately, and although they generally have an Eat-what-you kill-system, the partners in one office decided to use a point based Lock-step model locally (Francis: 3).

It is possible to manage the homogeneity of a partnership to a certain extent. In Germany, the law firm Hengeler with about 85 partners is famous for that. Francis commented on Hengeler:

“They are extremely homogenous. Someone said they are more a congregation than a law firm.” (Francis: 103, Eat-what-you-kill)

In a newspaper interview, a partner from Hengeler explained their homogeneity with the fact that they almost always promote partners from inside, lateral hires are rare (Balthasar 2018). As a result, a new partner already worked for many years as an employee in the firm, sharing the same culture, and is well known to the existing partners.

Two other aspects of homogeneity are the similarity of the clients serviced by each partner (cf. Edward's quote on p. 73) and the homogeneity of areas of law, e.g. when a firm specialises only on employment law instead of being a full service firm, because partners then share more similar education and work areas. There is however some evidence that these aspects of homogeneity are less relevant than the homogeneity of values: Specialised law firms in Germany do not tend to use Lockstep systems (see Table 8 below). Therefore, the assumption that homogeneity increases the suitability of Lockstep should be restricted to the homogeneity of values and beliefs.

	Pure Lockstep	Modified Lockstep	Merit	Eat-what-you-kill
Specialist firms	1	1	5	1

Table 8: Number of top 100 German law firms being specialised on one or few specific areas of law, per PSS (JUVE 2018)

Clients requiring cooperation

The specific client structure *yet has* an influence beside the homogeneity aspect. It seems to be important if the *services* provided to the clients *require cooperation* between partners or not. Cooperation might for example be necessary for subject-specific reasons, because clients need advice from different areas of law as part of a specific project. This aspect is different from the question of whether the firm is strongly specialised or to the contrary provides services for all kinds of legal areas: in the latter case, different clients might typically demand different services *independently* of each other, so that cooperation is not necessary. The *need for cooperation* is therefore independent from the *degree of specialisation* of the law firm and should be assessed separately.

If clients often require cooperation, the partners benefit from an environment where cooperation between partners is actively fostered. Otherwise, increased

cooperation between partners might be *helpful* e.g. for cross-referencing or innovation (Fu et al. 2015), but in total, the benefits from cooperation might not outweigh the individual barriers (Gilson and Mnookin 1985).

Age structure of partnership

The age structure of the partnership is very important for Pure and Modified Lockstep systems, because the age (the seniority, not the physical age) is the key influence factor for the profit share. These systems are based on the model that more junior partners generate more profits than they withdraw, whereas longer serving partners receive more than they generated in the current year. All partners however become automatically more senior from year to year, so that this model requires a steady flow of new, junior partners to maintain the relationship between givers and takers and to fulfil the promise of raising income over the years. Without that, the share of the most senior partners diminishes from year to year because of the static number of points (shares) they have; this is likely to be seen by them as an unfair situation (cf. quote Edward, p. 51). It is therefore vital for a Lockstep law firm (both Pure and Modified) to ensure that the age structure of the partnership is spread evenly to prevent perceived unfairness among the most senior partners.

At the same time, specifically for Lockstep firms it is important to agree on the 'mechanics' for retirement. Some firms have specific phase out rules, where the number of points diminishes above a certain age, some have a strict cut-off age of 65 or 67 years, where partners have to leave the partnership (JUVE 2018). One interviewee described that their firm introduced a 'part-time partnership model', which allows partners to reduce their workload and at the same time 'frees points' for more junior partners.

This section discussed the contextual factors - the environment that influences the needs of the law firm partners. These factors are typically easy to agree

on in a partnership¹⁷. But there are also *individual* needs, beliefs and values, and these might differ considerably – the next section addresses them.

6.3 Partner needs – individual factors

Q2: “What do I want?”

Findings showed that the interviewees expressed several *common* requirements, especially the need for a system which is generally perceived as fair (cf. chapter 5.2, p. 77) and which reflects that money is an important extrinsic motivation factor (cf. chapter 5.3, p. 84). More interesting for the purpose of this framework that intends to explain and help with the choice of a suitable PSS are the *differences between* partner’s needs. This section looks at those needs that differ and the beliefs and values behind them.

Fairness ideal

The taxonomy model introduced in chapter 2.6 (p. 23) presumes that the individual’s fairness ideal is one of the two main dimensions that are relevant for a PSS choice. The findings confirm this idea: partners from Pure Lockstep firms explicitly described a position of choice egalitarianism, whereas an Eat-what-you-kill partner held a libertarian position (cf. p. 81). Strict egalitarian positions were not present in the interviews; this is consistent with the non-existence of Equal Share models in this study.¹⁸ Bartling and von Siemens argue that for inequity adverse partners, “the equal sharing rule arises endogenously as an optimal solution to the incentive problem in a partnership” (2010: 1). If so, the non-existence of Equal share means that partners in large law firms are typically *not* “inequity adverse”. This is not surprising, as most of the partners were promoted to partnership using a tournament model (Galanter and Henderson 2008; Smets et al. 2017b), where they learned to be compared and compensated based on performance – and since they prevailed, it is rather unlikely that they hold a *strict* egalitarian position.

¹⁷ At least partners should easily agree what their *current* situation is like. There might be discussion about the intended *future*, e.g. if the firm should grow, open new offices or service additional areas of law, thereby becoming more heterogeneous.

¹⁸ The reasons for that will be discussed in chapter 6.4, p. 116 ff.

This tournament history also helps to explain why law firm partners using Lockstep can have a choice egalitarianism position (cf. p. 16) *and* an inherent appreciation of performance, which seems to be a contradiction at first glance. On the one hand, individual skills, efforts and achievements are *not* relevant for the profit share in Lockstep, which is consistent with choice egalitarianism (Cappelen et al. 2010). On the other hand, the Lockstep situation is based on the knowledge that their fellow partners have only reached their position in a tournament *because of* skills, efforts and achievements in the past that are comparable with their own. Combined with the trust that the fellow partners continue to do so, and supported by a guilty conscience (cf. quotes p. 51), the performance effort is ensured.

The understanding of the own fairness ideal is therefore a key prerequisite for the choice of a PSS. All partners agree that performance should be an important element. To work out the differences, the questions developed in chapter 5.2 are suitable (cf. summary in Table 6, p. 81) and will be used below.

Beside this dominating distributive aspect of fairness, also informational and procedural fairness aspects seem to be relevant for law firm partners, which supports the classification of Greenberg and Cropanzano (1993)¹⁹.

Informational fairness: need for transparency versus need for harmony

The need for transparent decisions is a classic example for *informational* fairness. Even though many interviewees expressed this need, for some of them transparency collides with harmony and stability in the partnership (cf. chapter 5.2, p. 82).²⁰ Having such need for harmony or not is therefore another deciding criterion for the choice of the PSS. The preference for preserving harmony does not mean conflict-avoidance and inaction, especially when combined with

¹⁹ Specific indications for the importance of *interpersonal* fairness did not occur in the interviews. This might be tied to the peer relationship of law firm partners, as most examples for interpersonal fairness presume a hierarchic relationship (Bies and Moag 1986; Colquitt 2001). In reality, interpersonal fairness might nevertheless be an issue, when committees are staffed with very senior partners who decide about junior partners, resulting in a de facto hierarchic situation. Future research might address this issue.

²⁰ Only partners from Modified Lockstep systems expressed the conflict with transparency, which will therefore be discussed further down in 6.5.

a high trust level (Empson 2013). Partners with a need for harmony typically prefer Lockstep systems, which match the higher trust level there (see below).

Procedural fairness

Procedural fairness is also important for the interviewees, e.g. as the “absence of arbitrariness”. In algorithm-based systems, transparency and the absence of arbitrariness are strongly connected: If the rules and the figures are transparent, and only then, there is no room for arbitrariness (cf. quote Francis, p. 82). For human decision based systems however, perceived procedural fairness is possible *without* full transparency, as Christopher feels:

“Fair is, that you have a comprehensible and entrepreneurial viable rationale for every [committee decision] (...) The process [of decision-finding] and the single aspects are not transparent, but the result is reasonable for me, where I can judge the partners concerned.” (Christopher: 16, Modified Lockstep)

This perception of procedural fairness is based on two pillars: The trust in the integrity of the committee members including the procedures during their (secret) decision making processes; and a ‘cross check’ of the results with their own perception. In Christopher’s case, the trust results from the fact that he was member of the decision-making committee previously. This is an interesting supportive argument for the use of rotation systems when staffing committees, as it is practiced in Imogen’s firm.

Trust level: trust in people versus trust in the system

The fairness perception in Christopher’s quote above needs trust as a *precondition*. At the same time, the trust also *results* from experiences, both past (committee work) and current (comparison of results with own judgement). The latter is consistent with Bediou and Scherer’s (2014) view that trust is an *outcome* of perceived overall justice, and it confirms the feedback aspect in Mayer et al.’s (1995) model (cf. Figure 1, p. 20).

Professional literature also highlights the importance of general trust for the PSS, e.g. Viney: “Put simply, if you have complete trust in the person or people responsible for profit-sharing decisions then frankly it doesn’t matter what reward system you have in place” (2013: 13). The findings in chapter 5.1 indicate

that such trust requires *knowing*, and chapter 6.2 described the circumstances that facilitate or hinder acquaintance between partners and therefore trust, e.g. a small number of partners and offices. Nikolova et al. argue in the same direction with the process nature of trust, resulting from interactions. They found three social practices in favour of trust: signalling ability and integrity; demonstrating benevolence, and establishing an emotional connection (2015: 232). These social practices however need practice (sic) - and in addition to the spatial aspect discussed in the last section, there is also a temporal aspect. Practice in the form of social interactions needs time. If there was not enough social interaction yet, trust might not have been developed. This is a typical situation for law firm start-ups (except if the founding partners did work very close together before). In a recent interview, a partner described exactly this case: “When we founded our firm, we didn’t know each other well enough” – their Equal share model, totally based on trust, failed and was replaced by a Merit based one (Stender 2018: 134).

If the trust level between partners is rather low for these or other reasons, another request to the PSS results: Avoiding human decisions in favour of algorithms. This is the second dimension of the taxonomy model introduced in chapter 2.6 (p. 23). In this case, *trust in people* is replaced by *trust in the system*, in transparent and predictable algorithms. However, algorithms are not neutral: In what they measure, they include a value judgement, and therefore also require some discussion and decisions. The COO of Norton Rose, a large international law firm, commented: “The profit sharing system might be as sophisticated as possible – if trust is missing in the partnership, that cannot be compensated.” (Lienemann 2018a: 33). It seems that *some* level of trust is needed with algorithm-based systems too.

Eat-what-you-kill systems might be an exception: no sophisticated algorithms exist, and no committee has to make decisions – from the perspective of the PSS, trust is not needed. This is consistent with the finding that of all interviewees, only the partners from Eat-what-you-kill systems did not mention trust at all.

Motivational factors

All interviewees conceded that they are extrinsically motivated by money. Many interviews said that they are not motivated by the absolute sum, as long as a minimum level of income is ensured²¹ (cf. chapter 5.3). Whereas some partners stressed that additional income is *not* important for them anymore, others *are* still motivated. In this case, money is typically a proxy for power and reputation (cf. p. 85; also Viney (2013: 42)); the symbolic meaning of money is more important than the instrumental (Gupta and Shaw 1998), the motivational effect of money gets an intrinsic aspect. The tournament history of the partners, during which the then-associates were typically measured by the amount of hours and fees they charged might have trained this behaviour.

It is helpful to distinguish the *fairness* aspect from the *motivational* aspect of money: The fairness aspect accentuates the sanity factor of a pay level that is deemed appropriate compared to the circumstances (primarily performance, but also seniority, effort etc.). There is a tolerance band which is accepted, exemplified by Oliver's explanation why they finally decided to go away from Lockstep:

“As long as we were in a range of plus/minus 50 percent around the average (...) it was no problem at all. But then (...) we had revenue differences with a factor of four. And that's the position where people say: 'I can't really compensate for that with such a system anymore' “ (Oliver: 5, Merit)

Accepting up to 50% deviation between performance (based on revenue) and profit share is a sign that the motivational aspect of money was long deemed to be of minor importance. In the end, the (lost) homogeneity of performance in the partnership was the trigger for the change.

²¹ The participants and generally the basic population of this study are not at all comparable with the German average: The average profit share of the partners in a top 100 law firm in Germany is above 700.000 Euro per year (JUVE 2018), the lowest rarely below several hundred thousand Euro.

Several intrinsic motivation factors could also be identified (cf. Table 7, p. 91). They are important; however more or less present in all PSS types and therefore not suitable to distinguish between PSS. There were no indications in the interviews, that the extrinsic motivation by money has a detrimental effect on this intrinsic motivation, as Deci and Ryan (1985) suggest. On the other hand, Shaw and Gupta (2015)'s contrary point of view that financial incentives *enhance* intrinsic motivation, couldn't be confirmed either.

Autonomy

An important part of intrinsic motivation is the perception of autonomy (Deci and Ryan 2000), as lawyers typically commit to professional autonomy (Faulconbridge and Muzio 2008). The needs of partners however differ, as perceived autonomy can have different manifestations: In a lockstep system, a partner can contribute to the firm using different individual strengths, be it as a 'finder' (of new clients), a 'grinder' (actually doing the work) or a 'minder' (care for existing clients)²². The 'fixed' salary allows individual autonomy in deciding *how* to work, although limited by peer pressure and a guilty conscience. This does not typically include the freedom to decide how *much* to work; it is expected that every partner works at full capacity (cf. quotes p. 51).

In a Merit based system on the other hand the autonomy is based on the *absence* of a guilty conscience. The partners are (within limits) free to decide how much they work and how much effort they put into it. This way, it is much easier to balance work and life for them. The increasing importance of "recalibrated work-life preferences" specifically for younger lawyers (Smets et al. 2017b: 100) is a challenge for established firms when balancing the needs of senior and junior partners, when senior partners were socialised in a culture of 70+ hour weeks. Merit based systems seem to have advantages regarding this challenge.

For other partners it is the absence of *control* that constitutes autonomy:

²² The terms of finders, minders and grinders are typically used in the context of Merit systems, where each role is assigned a fixed percentage of the profit.

“What is important for all of us is that we like the independence, not being controlled from London or New York or from a central office” (Lee: 17, Pure Lockstep).

A partner with this attitude will not be happy in a Modified Lockstep system with a remuneration committee located in another country. The individual understanding of autonomy is therefore an important means to help partners to decide ‘what PSS do we want?’.

Relationship between procedural justice and intrinsic motivation

A direct relationship between procedural justice and intrinsic motivation (Zapata-Phelan et al. 2009) could not be found. Interviewees rarely spoke about experienced injustice; where they did, it was action-oriented, e.g. when Imogen mentioned that she raised an issue in the partnership meeting (Imogen: 21). This might be grounded in the difference between a peer-to-peer situation and a hierarchical situation, where the subordinate might only resign when a manager defers procedural justice.

This section discussed the individual partner needs that a profit sharing system should fulfil. Table 9 below summarises the areas of these needs. The next section will now move the focus from the left side in Figure 14 (p. 98) to the right side: the different available PSS’s.

Partner needs – contextual factors	See page
Number of partners and offices	100
Homogeneity of the partnership	101
Clients requiring cooperation	102
Age structure of partnership	103
Partner needs – individual factors	
Fairness ideal	104
Informational fairness: need for transparency versus need for harmony	105
Procedural fairness	106
Trust level: trust in people versus trust in the system	106
Motivational factors	108
Autonomy	108

Table 9: Overview of partner needs

6.4 Profit sharing systems and their modifications

Q3: “What PSS types are available?”

It is not sufficient just to assess the different PSS on the archetype level, as they appear in the academic and professional literature (cf. chapter 2.2, summary in Table 1, p. 12). There are two reasons for this: first, not all archetypes are actually used in the segment that is the focus of this study (the 100 largest law firms in Germany). Second, for the modified systems it is important to differentiate between the *specific modifications*, because each modification has different implications on perceived fairness or motivation. This section explains which PSS's and which modifications are important and should therefore be integrated in the framework.

Three PSS archetypes were *not* found in the interviews: Equal share, Subjective and Corporate. This is consistent with the professional literature: An overview about the profit sharing systems used in the 100 largest law firms was published during the research phase of this study in JUVE (2017) and showed

that none of the top 100 firms uses one of these three systems.²³ The reasons for that are individually different, consistent with the academic literature:

- *Equal Share*, meaning that all partners receive exactly the same share, only works with a small number of partners (Kaiser et al. 2015), and when the partners have basically the same seniority. It is therefore an option for start-ups (Stender 2018), but tends to be replaced by Pure Lockstep when a ‘second generation’ of partners is admitted, because typically the founding partners do not want to share equally from the beginning with a ‘junior’. It is therefore not used in large, grown up organisations like those in this study.
- *Corporate*, based on partner salaries and dividends, assumes the legal structure of a corporation, not a partnership. Only 13 of the top 100 German law firms are *not* partnerships, and even those apply the same principles as partnerships, e.g. that the salary rises automatically with the seniority (i.e. Modified Lockstep) or is calculated using a specified formula (i.e. Merit) (JUVE 2017). It is therefore not sensible to use this type separately; it is also rarely used in the literature (cf. Table 1, p. 12).
- *Subjective* means that individuals (often a committee) are making the profit share decisions. Most authors do not use this PSS archetype category (cf. Table 1, p. 12). Wesemann and Kerr (2015) are an exception; in their survey, they even categorise half of the US law firms as being of this type. The issue of *subjectivity* is not in the focus of academic authors, who typically only contrast performance/productivity based with seniority-based systems (Gilson and Mnookin 1985; Morris and Pinnington 1998; Smets et al. 2017a). Gilson and Mnookin however commented on subjectivity and concluded that only in the specific *implementation* of a PSS archetype it becomes a fairness judgement

²³ JUVE includes a disclaimer that not all of the information presented is reliable, because it relies on undisclosed market information. The author’s experience and specific knowledge about many of the law firms on the list can confirm this statement: The data presented are not exact, sometimes wrong, but give generally a correct impression about the economic situation of the law firms.

issue whether a formula or a human decision is considered appropriate (1985: 390). Following this logic, a 'subjective' system could be either classified as a Merit based system (when the committee decision is based on the calculation of specific scores) or a Modified Lockstep system (when the decision is based on seniority). However, the issue of subjectivity remains important and it is one of the strengths of Wesemann and Kerr's system to introduce that category. It will therefore be considered below when the specific modifications of Modified Lockstep and Merit are discussed.

The remaining four PSS archetypes that were actually used in the interviewee's firms (Pure Lockstep, Modified Lockstep, Merit based and Eat-what-you-kill) will now be discussed in more detail.

It should be noted that the boundaries between the systems are not always precise in practice. If for example an Eat-what-you-kill law firm shares the profits generally based on individual turnover, but allows to "transfer" parts of the turnover from one partner to another partner who acquired the client, this could also be called a Merit system. The same blurred boundary exists between 'Modified Lockstep systems with a bonus' and Merit based systems. The law firm Arnecke Sibeth Dabelstein for example distributes 95% of its profits according to Lockstep and 5% using a bonus scheme - the Lockstep component prevails. Another law firm (BRL) however distributes 70% according to Lockstep and 30% performance based, and a third (BBL) uses a 50% / 50% ratio (JUVE 2018). The latter could also be called a Merit based system; it becomes difficult to classify the firm as one PSS type. Nevertheless, it is helpful to distinguish the systems, because the intended consequences of each are generally different, and the reason for combining different PSS's is typically the attempt to leverage the specific disadvantages and advantages.

Pure Lockstep

All Pure Lockstep systems are relatively similar. They typically have a minimum number of points (the entry level), a maximum number (the plateau) and a number of steps in between. The absolute number of points is not important, as the points are only used to calculate the individual share as a portion of the

total, but the *relation* between maximum and minimum points is. The interviewees reported multiples between 1:3 and 1:5, meaning that the partners with the highest share earn three or five times of what an entry level partner receives. This is consistent with JUVE (2018) who report multiples between 1:2,5 and 1:5, with between 3 and 12 steps in between, and Wesemann and Kerr (2015). Even though these differences can make a substantial difference in practice, as they postpone the individual income more or less into the future (Gilson and Mnookin 1985), they are structurally similar.

Some interviewees described some smaller modifications like a guaranteed minimum income for junior partners to ensure that a partner earns always more than a salaried lawyer, but these modifications do not change the nature of the system and were also reported from law firms with PSS other than Pure Lockstep. For the purpose of this study, it is therefore not necessary to further subdivide this PSS type.

Modified Lockstep

When the Pure Lockstep system is *fundamentally* modified, it is usually called “Modified Lockstep”. Such a fundamental change always touches one or both of the two pillars of the Lockstep system: The *lock*, which means that a share is ‘locked in place’ and cannot drop once reached; and the *step*, which means that the share ‘steps up’ automatically in regular intervals, e.g. every second year.

Several typical modifications are in use in the firms of the seven interviewees who have a Modified Lockstep system (cf. Table 4, p. 35). The professional literature on PSS also describes some modifications, however only on a statistical level and without discussing the differences (Schoen 2016; JUVE 2017; JUVE 2018). Academic authors sometimes acknowledge that Lockstep modifications exist which aim to introduce a performance element into the system, but typically also do not distinguish between the modifications (e.g. Empson et al. 2013; Cleaver 2014). Many authors even ignore modifications at all and only discuss the Pure Lockstep system (e.g. Brock 2006; Faulconbridge and Muzio 2009; Harlacher and Reihlen 2014).

Modifications are however important, and they are the rule, not the exception: Viney (2013) found 4 times more Modified than Pure Lockstep firms in the US, and Schoen (2016) found approximately a 1:1 ratio in Germany (both statistics are admittedly not representative). The main reason for modifications is to mitigate inherent downsides of a (pure) lockstep system (cf. chapter 4.2, p. 56).

According to JUVE (2018) and confirmed by the interviews, the main modifications in use in Germany are:

- *Gates*: A gate stops the automatic step up at specific stages, usually two or three times in a partner's career. A gate always needs an active decision before the partner might move up on the ladder.
- *Bands*: Usually, the steps available for the partners are fixed point values, like "80 / 85 / 90". With bands, they are adjusted up or down, but only in a limited way, e.g. "80 +-5 / 90 +-5". The variance inside the band can either be calculated or decided by a committee.
- *Point reduction*: Partners might be downgraded to a lower level (which breaks the lock). This is typically reserved for an exceptional situation like underperformance for several consecutive years and requires an active decision.
- *Bonus schemes*: Exceptional performance of (very few) partners will be rewarded in addition to the standard lockstep share. This might comprise exceptional turnover, an outstanding client acquisition, or (seldom) management tasks. Typically, 2 to 10% of the total firm profit is taken for this (JUVE 2018). The award decision is typically made by a committee for one specific year.
- *Phase-out rules*: Whereas every lockstep system has an inherent limitation due to the plateau point level, some law firms decide in addition to reduce the points of partners when they reach a retirement age.

It is worth noting that all of these modifications (except the phase out) need a *qualitative* decision, typically made by a remuneration committee. These committees do use quantitative financial information to support their decisions (an

example see Stecklbach (2018)), but it is the human capability to consider unforeseen and complex situations that distinguish a committee decision from a formula decision (Wiegmann 2017 unpublished) .

Merit based

In a Merit based PSS, the individual share of a partner is calculated every year based on several factors, usually with the turnover as most important single measure (if turnover was the *only* measure, the system would be called Eat-what-you-kill). The second component of a Merit based system is always the acquisition achievement, although the metrics used are different from firm to firm. The main forms are:

- *Simple (Turnover & acquisition)*: There is *only* a turnover and an acquisition element
- *plus client service*: In addition to turnover and acquisition, a client service role is defined and rewarded. The US firm Hale & Dorr introduced its PSS in the 1940s and rewarded the “finder” (acquisition), the “minder” (client responsibility) and the “grinder” (doing the legal work = turnover), therefore this system is also called ‘Hale & Dorr system’ (Anderson 2001).
- *plus management*: Some Merit based firms do reward management tasks like committee work in addition to the other measures (JUVE 2018), some explicitly don’t (like Imogen’s firm, where as a balance the management roles rotate every three years).
- *Smoothing*: A standard Merit system calculates the profits based on one year’s figures. This can lead to considerable individual income fluctuations. In a system with smoothing, average figures from two or three years are used. This reduces the variations and introduces a mid-term component.
- *Forward impact only*: In a standard Merit system, the calculated shares are used to split the profit ex post: After a year’s end, the figures are calculated based on that year’s performance, and the profit of that year is distributed accordingly. With Forward impact, the performance in the *last* year only has an impact on the *current* year’s profit

distribution. This intends to encourage exceptionally strong partners to stay with the firm, because they will harvest the fruit only a year later.

- *Team performance*: Metrics are not based on an individual partners figures, but (at least partially) on a group of partner's figures, e.g. that of a practice group. This intends to encourage cooperation at least inside the groups.

There are other criteria which are sometimes included in the Merit calculation, e.g. new partner development, employee development, employee utilisation, project responsibility, enhancing firm visibility, scientific articles, capacity for teamwork, pro bono work (JUVE 2018).

Eat-what-you-kill

Eat-what-you-kill systems are always focussed on the individual turnover of every partner. There is however a difference related to cost allocation:

- *Individual costs*: Costs are allocated to each partner, either on an individual base for each cost, or (for reasons of simplification) per head, e.g. office rent.
- *Shared costs*: Some firms share all or some of the overhead costs like office rent, IT costs, secretaries etc. If these costs are shared, this is based on the idea that stronger shoulders can bear more costs and introduces an element of equalisation.²⁴

Table 10 (below) provides a summary of the above-mentioned PSS types and modifications and shows how often they were mentioned in the interviews (cf. Table 4, p. 35). An analysis of the verbal descriptions of the profit sharing systems of the 100 largest law firms in Germany in JUVE (2018) confirms that these PSS modifications are generally in use in Germany.

²⁴ When a firm deduces the total costs from the total turnover, and starts to distribute the resulting profit from there, this has the mathematical effect that partners with more revenue bear more costs than partners with less revenue.

PSS Type / modification	Number of in- interviewees that use this PSS / modification	Number of top 100 law firms in German that use this PSS / modification
Equal Share	0	0
Corporate	0	0
Subjective	0	0
Pure Lockstep	3	13
Modified Lockstep	7	39
Modified Lockstep: Gates	6	13
Modified Lockstep: Bands	0	4
Modified Lockstep: Point reduction	5	9
Modified Lockstep: Bonus schemes	6	23
Modified Lockstep: Phase out rules	0	3
Merit	3	45
Merit: Just turnover & acquisition	3	12
Merit: Plus client care	0	7
Merit: Plus management	0	12
Merit: Smoothing	1	3
Merit: Forward impact only	1	0
Merit: Team performance	1	2
Eat what you kill	2	3
Eat what you kill: Shared costs	1	2
Eat what you kill: Strict cost centres	1	1

Table 10: Number of law firms using each PSS and modification, according to interviews and JUVE (2018). Text analysis and attribution by the author.

6.5 Relevant characteristics of PSS and modifications

Q4: “What characteristics do the PSS have?”

This section discusses the relevant characteristics that allow distinguishing the PSS’s from each other. For each of the 17 characteristics introduced (see Table 11 below) it is argued why that characteristic is relevant, and how the different PSS’s relate to this characteristic, using findings from the interviews and the literature. None of the characteristics is per se ‘good’ or ‘bad’ – it depends on the needs of the partners, if a certain characteristic is desired in a given case or not.

The characteristics divide into groups. The first three (a., b. and c.) belong to the vertical dimension ‘Scope of responsibility’ in the taxonomy model introduced in chapter 2.6 (see Figure 2, p. 24) and focus on what is rewarded. The second group (d. to f.) correspond with the horizontal dimension ‘Mode of decision making’, i.e. the principle how decisions are made. The third group (g. to k.) considers the specific advantages of all systems. The last group (l. to q.) contains further characteristics that interviewees reported as important.

Scope of responsibility (what is rewarded)
a. Rewards are based on performance
b. Rewards are based on seniority
c. Rewards allow for exceptional performance
Mode of decision making
d. Decision-making and thereby discussions are avoided
e. Decisions are based on humans (committees)
f. Decisions are based on algorithms (formulas)
Advantages
g. Is long term oriented
h. Encourages client referral and collaboration
i. Encourages non-billable/management work
j. Provides individual financial security
k. Encourages individual autonomy and diversity
Other
l. Is based on detailed performance monitoring
m. Involves peer pressure to perform
n. Requires trust in fellow partner's efforts
o. Emphasizes extrinsic motivation by money
p. Considers (also) qualitative performance
q. Needs decisions about financial transparency

Table 11: Characteristics to distinguish Profit Sharing Systems

Table 12 at the end of this section (p. 132) contains a one-page summary of all characteristics and shows how strong or weak each characteristic is present in each PSS.

a. Rewards are based on partner performance (or not)

One of the most important, if not *the* most important characteristic of a PSS is whether the sharing is based on individual performance or not. Gilson and Mnookin (1985) postulated a dichotomy between productivity based and seniority based systems; however these should be treated as two *independent*

characteristics, as PSS could be based on neither (like Equal Share) as well as on both of them: most modifications of Lockstep try to add a performance component to the seniority focus of a Pure Lockstep system.

When performance is declared to be relevant, the subsequent problem is always how to define and measure it – this leads to further characteristics which will be discussed below.

b. Rewards are based on seniority (or not)

The second main characteristic is whether seniority is a key element for profit sharing or not (Gilson and Mnookin 1985), typically measured in years of belonging to the partnership. Seniority is desirable for two different reasons: It is seen as a proxy for expert knowledge (resulting in higher hourly rates), a larger network (resulting in more mandates), and thereby indirectly increasing profitability. The second reason is related to fairness: Partners that are more senior have contributed to the building and the success of the firm for a longer time, e.g. by building a brand, and this is awarded. The difference between these two aspects of seniority becomes visible when lateral hires occur (experienced partners are admitted to the partnership). In Pure and Modified Lockstep systems, such a 'lateral partner' needs to be classified and assigned an initial point value. If the second, fairness related aspect prevails, the lateral partner would start with a lower point value in his new law firm than if the first, experience related aspect is prioritised.

c. Rewards allow for exceptional performers

One of the main reasons for a change from a Pure to Modified Lockstep systems is the perceived necessity to reward exceptional performers (Balthasar 2018). The rationale behind that is that exceptional performance is seen as important for the law firm and that it is apprehended that such an over performer could tend to leave the firm (Galanter and Henderson 2008), thereby reducing overall profitability (Kaiser and Ringlstetter 2011).

Specifically partners from Pure Lockstep systems emphasise that the idea of rewarding exceptional performance is related to the question of whether motivation is based on other things in addition to money (cf. findings chapter 5.3 p. 84ff, also Ströder (2018)).

d. Decision-making and thereby discussions are avoided

Equal Share and pure Eat-what-you-kill, even though representing two very different concepts, also share one characteristic: In both systems, the profit share is determined by the system. There is no need for discussion; the share can be calculated. In Pure Lockstep, decisions about number and height of the steps are necessary during the setup of the system, but once in use, usually no further, yearly recurring decisions are needed. It could be argued that a Merit system, which is strictly based on calculation of figures, behaves the same way. However, as soon as a remuneration committee exists or 'management decisions' are needed to assess performance or grant bonuses, the need for decisions and therefore discussion arises. This immediately adds fairness issues (cf. findings chapter 5.2, p. 77ff) and a potential for conflict in the partnership.

In addition, together with the need for active remuneration decisions, the issue of transparency of those decisions arises (cf. findings on trust and financial transparency, p. 82). *Not* having the need for decisions is therefore a value in itself. This might be one explanation, why Equal share or (in older, larger law firms) Pure Lockstep is sometimes admired as the better PSS, but seen as 'unfortunately' not adequate any more for the own firm (cf. Edward's quote p. 73).

Merit based systems also involve decisions, e.g. when two partners negotiate who gets an acquisition credit for a new mandate. This includes "a lot of fuel for conflict", as Howard pointed out (see quote on p. 61).

e. Decisions are based on humans (committees)

As soon as decisions *are* needed when determining the profit shares, as in any Modified Lockstep and most Merit based systems, these decisions could be based either on human decisions or on algorithms. However, the two ways are not mutually exclusive, and are therefore discussed as two different characteristics here (e and f below). In a Merit Based system for example, the main part of the profit share might be calculated using an algorithm based on turnover and acquisition, whereas another part is awarded by a committee.

A human decision does not mean an arbitrary decision. Committees will likely decide based on facts, including statistical information (Wesemann and Kerr 2015), but also on pure qualitative considerations, i.e. based on the perceptions of the other partners, using a survey (Anderson 2001).

Gilson & Mnookin put this decision between humans and algorithms in a fairness context and argue that it “turns on a judgment about the best way to insure that the members of the firm view the particular allocation as legitimate (...) Implementation by formula (...) seeks fairness by eliminating individual judgment (...) Implementation by subjective division (...) seeks fairness by substituting the individually tailored outcomes possible through personal assessment for the potentially arbitrary results of a rigid formula. The particular implementation method chosen is likely to depend heavily on the characteristics and personality of the particular firm” (1985: 390). This is consistent with findings in previous work of the author, where one partner declared that they actively decided against arithmetic calculation and “explicitly want to have a remuneration committee, who consider personal achievements, setbacks, and so on, illness, I don’t know, and more like that (...) where one is evaluated as a human being”. In contrast, a partner from another law firm called those human decisions “stupid to nauseous”, based on “functionaries” and “bootlickers”, and claims that their algorithm based system avoids “unobjective decisions” and “closed doors” (Wiegmann 2016 unpublished: 8). The vehemence of both statements indicates that the decision between committee and formula is of great importance for the choice of a PSS.

f. Decisions are based on algorithms (formulas)

The alternatives to human decisions are algorithms, also called formulas. This basically means that the profit share can be *calculated* from data, typically financial data.

There is an important difference between PSS where financial figures are used by a committee to assess performance, e.g. in a Modified Lockstep system, and a truly algorithm based PSS, like in a Merit or Eat-what-you-kill system. When figures are used in a lockstep system, this is often done to identify and handle *exceptions*, e.g. to deal with partners that are exceptionally good (and

deserve a bonus) or exceptionally bad (and require a downgrade or denial of passing a gate). Interviewees emphasised that this does not happen often (Bob: 9, Gareth: 3). 'Normal' ups and downs in turnover, acquisition or whatever is measured do not influence the profit share.

In an algorithm based PSS however, *every single* transaction has a direct influence on the profit that is distributed at the end of the year. This tempts partners to optimise the transactions as such. Depending on what is measured, partners might change their conduct or the way they record things to optimise the result. This furthers a tendency to micro-manage the individual mandates: partners start to discuss the exact percentages of their acquisition contribution (Howard: 57), or how many associates of another partner they had to supervise – whatever is actually measured. These kinds of discussion are not very productive, and do not contribute to a cooperative mood between the partners.

g. Is long term orientated

Lockstep systems are inherently based on the postponement of the reward into the future, whereas Eat-what-you-kill systems are short term oriented. Merit based systems are typically medium to short term oriented, depending on their mechanics (cf. Table 6, p. 81). Lockstep as such is based on an inter-generational contract: in the first years as a partner, the profit share is relatively low; in later years, it is continuously rising. Low point partners deliberately postpone some of their potential earnings into the future. This *requires* a long term perspective, but it also *produces* long term perspectives, as firms become very stable (cf. quotes p. 49 f), because it is in the interest of every partner to stay with the firm as long as possible. On the other hand, this can also be experienced as a lock-in: Changing the partnership for whatever reason becomes unattractive.

A long term orientation also needs trust in the long term success of the firm. If this trust is not there (cf. Edward's quote, p. 67), a system based on long term commitment is not attractive.

Current professional literature postulates a shift away from long term orientation and argues that this is related to general changes in society having a focus on the present (Balthasar 2018), and that partners "don't want to wait any more

for the second marshmallow” (Lienemann 2018b). There is however only cursory evidence for this.

h. Encourages internal client referral and collaboration

Collaboration among autonomous knowledge workers is not only helpful for the organisation, but also for the single professional (Gardner and Valentine 2014) and is therefore generally desired. Lockstep systems are described as encouraging client referral and collaboration in the literature (Gilson and Mnookin 1985; Anderson 2001; Kaiser et al. 2015) and in the interviews (cf. chapter 4.1 advantages, p. 49). Eat-what-you-kill systems by contrast bear the risk that cooperation is *not* encouraged (ibid, cf. chapter 4.4 Downsides, p. 65).

In Merit based systems, client referral (also called ‘acquisition’ or ‘origination’) is very often the second most important score after individual revenue. There seems to be a difference between the US, where ‘New client origination credit’ is *the* most important factor, and Europe, where 50% of the law firms call it “irrelevant” for their PSS (Wesemann and Kerr 2015). This is however explicable technically: Wesemann and Kerr report 79% of law firms in Europe having Lockstep, 23% thereof Pure Lockstep²⁵, other than in the US, where Lockstep is scarce. In a Lockstep system, the individual client referral rate is indeed not measured and therefore “irrelevant” for the profit share. It is therefore no contradiction to report that in Europe, due to the high rate of Lockstep systems, client referral is “irrelevant” for the PSS and at the same strongly encouraged (cf. findings).

Major et al. report for London law firms that the move from Lockstep towards Merit based systems had “a negative effect on collaboration, information sharing and allocation of work” (2017: 4), which is consistent with the interview findings.

²⁵ These figures are not consistent with Lowe (2016) and Schoen (2016) and should therefore be used with care, but the tendency of European law firms relying much more on Lockstep than US firms is generally accepted (Morris and Pinnington 1998; Wesemann and Kerr 2015).

i. Encourages non billable / management work

In an Eat-what-you-kill system, where the profit share is only dependent on how many work hours can be charged to a client, every hour used for other purposes like firm management or other non-billable work is detrimental for the individual profit share. This contains the risk that such firms are under-managed, e.g. that not enough time is invested in the strategic development of the firm. Some Merit based systems try to mitigate that risk by assigning points for those tasks; others rotate responsibility for those tasks through the partnership – it is however questionable, whether treating management tasks as ‘a burden which has to be carried’ leads to results of high quality. In Lockstep systems in contrast, there is at least no financial disadvantage for partners who engage in management tasks.

This situation is a markedly different to ordinary companies, where management positions are almost always *better* paid than the average employees.

j. Provides individual financial security

Lockstep systems inherently provide financial stability for the individual partners, as the share does not change if a partner has individual fluctuations in performance, number of hours worked etc. Stability does not mean guaranteed income – if the total profit of the firm drops for systematic reasons, maybe because of an economic downturn, the share percentage remains the same, but the absolute share obviously drops. Unsystematic risks like the insolvency of a client or demand fall in a specific area of law are however shared and portfolio theory attributes a value to this (Gilson and Mnookin 1985). In Merit based systems, the reduced security there is consequently seen as a downside (cf. Jennifer’s quote, p. 60). Some Merit based systems try to mitigate this by calculating their profit shares based on figures of two or three years, which leads to a smoothing of the effects; the general difference that the partners still bear unsystematic risks on their own remains however the same. Oliver commented on this with a sentimental undertone:

“In the past we would have said ‘if a partner becomes seriously ill for 9 months, does not matter’ (...) this would be difficult today among younger people (...) everyone simply has to hedge against risks themselves” (Oliver: 13, Merit)

He and his peers still decided to switch from Lockstep to Merit, among others due to the next characteristic:

k. Encourages individual autonomy and diversity

There is an inherent conflict between homogeneity and individual autonomy, that surfaces specifically in Lockstep systems.

Lockstep systems, specifically Pure Lockstep, do not only *need* homogeneity in the partnership as a precondition (cf. chapter 4.1, p. 51); they also *lead to* a homogenous partnership structure due to their careful partner selection process. This might also have unintended side effects. According to portfolio theory, which recommends diversification, homogeneity increases risk (Gilson and Mnookin 1985). Another side effect is that it limits the growth rate, because lateral partner moves are very difficult.

The Lockstep model is inherently based on a comparable work ethic of the partners, as they are all expected to strive on the same level. This increases the peer pressure on the partners and limits the autonomy e.g. to decide to work less hours (cf. chapter 4.1, quotes on p. 51). Empson and Chapman in contrast argue that lockstep systems provide “partners some degree of protection from managerial controls (...) [and] serve to support the emphasize on individual autonomy embodied in the interpretative scheme of the partnership” (2006: 146); this does however not incorporate the power of peer pressure, that emerged from the interviews.

A merit based system (and even more Eat-what-you-kill) allows for much more heterogeneity in the partnership. In these systems, partners can work on different levels of effort without bad conscience: If they work less, they just earn less. This enables more individual freedom (cf. quotes on p. 59) and reduces the peer pressure. Changing family models, and generally the growing relevance of work-life-balance lead to increasingly different conceptions of the importance of long work hours. Oliver, a lawyer in his sixties, commented on this topic:

“In my generation, 30 years ago we all had a rigid image how much a partner should work (...) But today there are two who want to make career – if they want to have a family too, they need to find a balance, without having too much pressure” (Oliver: 23-25, Merit)

I. Is based on detailed financial performance monitoring

All interviewees agreed that a fair PSS should be based on results, but had different opinions whether assessing the results requires only quantitative or also qualitative information (cf. chapter 5.2, Table 6, p. 81). *Some* financial performance monitoring is therefore common in all law firms. The *use* and access to this information is however different: In Lockstep systems, sometimes only the management and/or remuneration committee members know all figures (Viney 2013; Lowe 2014: also reported by Bob and Christopher). In Merit based and Eat-what-you-kill systems, typically partners have access to all information, because the profit share is directly based on it.

There is however a great variance as to *what exactly* is measured, and in what detail (cf. chapter 6.4.). Measuring something and using the result to affect the profit share directly (in Merit and Eat-what-you-kill) or indirectly (in Modified Lockstep) has two main goals: First, ensuring fairness; second, affecting behaviour (Morris and Pinnington 1998; Anderson 2001).

Measures themselves are not ‘objective’; they always include a judgement. For example, would it be sensible to measure the working hours of the partners? Or is it sufficient to measure the financial revenue generated by this working only? There is a fairness issue behind this question. Provided that two partners both manage to create the same revenue in one week, but one worked 40 hours, and the other 60 hours to achieve that. Should that make a difference? If they share the profit equally in a Lockstep system, should the first partner work more, as much as the second, to add to their common profit pool? In a Merit based system, the equivalent question is whether the formula includes working hours or not. The hidden concept between these questions is the idea that in a ‘fair’ system, ‘similar’ work should result in ‘similar’ rewards²⁶. The

²⁶ This idea is based on the fairness ideal of Meritocracy (cf. Table 3, p. 18). Someone with a fairness ideal of Strict Egalitarianism would not agree.

problem is to define and agree what exactly makes work comparable and similar.

Specifically in formula based Merit systems, the attempt to construct a 'fair formula' that at the same time gives the 'right incentives' can lead to very complex formulas, and some law firms use up to 12 criteria to calculate (JUVE 2018).

m. Involves peer pressure to perform

Peer pressure can be an effective motivator and can have an antagonistic effect to free riding and shirking (Kandel and Lazear 1992). Such pressure can be perceived as normal (cf. Martin's quote p. 51), but also as problematic, e.g. when Imogen said about friends who work in Lockstep firms:

"There is an immense pressure. Very high revenue expectancy (...) we [in contrast] have more freedom (...) I'm not under pressure, because then I simply take less profit next year" (Imogen: 37, Merit)

Equal share and Pure Lockstep systems basically have no other way of ensuring that the fellow partners engage sufficiently, choosing such a system therefore means accepting peer pressure.

n. Requires trust in fellow partners efforts

Fulmer and Gelfand (2012) argue that trust research should differentiate between level of trustor and referents, i.e. trust *from* individuals, teams or organisations as trustors; and trust *in* individuals, teams or organisations as trustees. For a PSS, two levels are relevant (Kay and Hagan 2003): First, the individual partner's trust in their (single) fellow partners. This is about trust between colleagues. Second, the trust invested in the firm and 'the rules', i.e. trust in the organisation.

In chapter 5.1 it was shown that the importance of trust in the fellow partners is diverse for the different PSS's. Such trust seems to be very important for Pure Lockstep systems, of use in Modified Lockstep and Merit systems, but not to be required in Eat-what-you-kill systems (see chapter 5.1, summary p. 77). This characteristic is therefore appropriate to help differentiate between PSS's.

The second level, trust into the system, is not well suited to classify PSS's. It depends more on the individual position as discussed above (p. 106) or on preconditions that are better treated separately like the fairness principle (see a. to c.) or transparency (see q. below).

o. Emphasizes extrinsic motivation by money

The findings chapter on motivation (5.3) showed that generally, the extrinsic motivation by money was meaningful for all interviewees. Every PSS contains an element of this (except Equal share, which is not relevant in this study); even Pure Lockstep includes the principle of financial incentive, only that long term engagement with the firm is financially rewarded instead of short term performance. Differences between PSS's however exist: Interviewees with Pure Lockstep (and only them) expressed explicitly that money is not a *key* motivator for them (see quotes on p. 53). Eat-what-you-kill and Merit based systems on the contrast are inherently based on the idea that money *is* a key motivator; in Modified Lockstep systems, the modification with bonus schemes is specifically intended to provide an extrinsic motivation to stay with the firm.

p. Considers (also) qualitative performance elements

Eat-what-you-kill is based on the idea that 'only revenue counts' - sometimes costs are also considered, but it's just about financial figures. In Merit based systems, it depends on the calculation method: sometimes, non-quantitative factors like management engagement are included, sometimes not (see Table 6, p. 81; also examples in JUVE (2018)).

In contrast, Lockstep systems are generally based on qualitative considerations. Even in those Modified Lockstep systems where financial figures are used in the discussion e.g. when a gate decision is made by a remuneration committee, the figures are subject to interpretation and only used as one of several factors.

q. Needs decisions about financial transparency

Other than the characteristics a. to p. above, the degree of financial transparency is not a *general* characteristic of any PSS type (or modification). In theory, the partners in *any* PSS can decide to share or not to share the information as to how exactly the profit shares were determined and who receives which

share.²⁷ Transparency is however seen as a very relevant feature, as the quotes on p. 74 show.

The professional literature also indicates that transparency is an important issue, not least because it is included as a separate item in the relevant surveys. Wesemann and Kerr (2015) specifically asked for this aspect and found that in Europe, 80% of all firms have transparent (“open”) PSS, with a rising tendency. Lowe found for US based law firms that 62% are open, 13% partially open and 24% closed, i.e. financially non-transparent. In the US, partners in transparent systems were “much more likely to classify themselves as ‘very satisfied’ than in closed systems” (2016: 8) (p. 8), and Major et al. (2017) confirms the same tendency for London law firms. For Germany, Schoen (2016) found in his non-representative study that 13% of the partners do not know, or only partially know what other partners earn, whereas 25% rate the transparency of the system as ‘negative’. These figures indicate that dissatisfaction exists in both directions: partners with no transparency might miss it, but there must also be partners *having* full transparency that are not happy with this situation. A detail in Major et al.’s report seems to confirm that financial transparency is not primarily a question of the PSS type: Out of 60 partners that experienced a move from (Modified) Lockstep to Merit based systems, about one fifth reported that this move had a *positive* impact on transparency, whereas another fifth reported a *negative* impact.

Findings of this study on the other side showed that in practice, only partners from Modified Lockstep systems discuss the pros and cons of financial transparency and also see disadvantages (cf. chapter 5.1, p. 74), whereas partners in all other systems seem to agree that transparency is a matter of course. To account for that, this characteristic is included in the list using ‘needs decision’ instead of ‘is based on’ as qualifier.

²⁷ It is an interesting question, if *not* completely sharing all financial information within the partnership would be legally enforceable at all, if any single partner would take this case to court. The partners of a partnership are the owners, and jointly liable (Partnership Companies Act). Notwithstanding, some law firms actually do not share all financial information between equity partners (cf. Gareth’s quote, p. 79).

Evaluation of the characteristics of each PSS subtype

In Table 12 below, every relevant characteristic discussed above is now assessed against the available PSS and relevant modifications (see section 6.4). The evaluation is a summary of three perspectives: first, the findings discussed in chapter 4 regarding the different PSS's, cf. the summaries for Pure Lockstep (Figure 7, p. 55), Modified Lockstep (Figure 8, p. 58), Merit based (Figure 9, p. 64) and Eat-what-you-kill (Figure 10, p. 69); second, the findings in chapter 5 regarding trust, fairness and motivation (see summary Table 7, p. 91); and third, the literature on PSS as exemplified in chapter 6.5 and discussed in this section.

Characteristic	PSS type: Modification												
	Equal Share	Pure Lockstep	Modified Lockstep: Gates	Modified Lockstep: Bands	Modified Lockstep: Point reduction	Modified Lockstep: Bonus schemes	Modified Lockstep: Phase out rules	Merit: turnover & acquisition	Merit: also management	Merit: Mid-term Smoothing	Merit: Forward impact only	Merit: Team performance	Eat what you kill: Shared costs
Scope of responsibility (what is rewarded)													
a. Rewards are based on performance	-	-	+	+	+	+		++	++	++	++	++	++
b. Rewards are based on seniority	-	++	++	+	+	+		-	-	-	-	-	-
c. Rewards allow for exceptional performance	-	-	-	+	-	++	-	++					++
Mode of decision making													
d. Decision-making and thereby discussions are avoided	++	++	-	-	-	-		+	-				+
e. Decisions are based on humans (committees)	-	-	+	+	++	++	-	-	+	-	-	-	+
f. Decisions are based on algorithms (formulas)	-	-	-	-	-	-	+	++	+	+		++	++
Advantages													
g. Is long term oriented	++	++	++	++	+		++	-		+	+		-
h. Encourages client referral and collaboration	++	++	+					+					-
i. Encourages non-billable/management work	+	+	+					-	++				-
j. Provides individual financial security	++	++	++	+	-			-	-	+	-	-	-
k. Encourages individual autonomy and diversity	-	-	-	-	-	-	-	+	+				++
Other													
l. Is based on detailed performance monitoring	-	-	+	+		+		++				++	++
m. Involves peer pressure to perform	++	++	++	+	+		-	-				+	-
n. Requires trust in fellow partner's efforts	++	++	++	+				-		+	+	+	-
o. Emphasizes extrinsic motivation by money	-	-			+	++		++	++		+	+	++
p. Considers (also) qualitative performance	++	++	++					-	+				-
q. Needs decisions about financial transparency			+	+	+	+							

Legend: ++ Yes (strongly), + Yes (moderately) – No

Table 12: Summarising evaluation of relevant PSS types and modifications against important characteristics, based on findings and literature

Up to this point, the framework presented is more or less generic: it tries to incorporate the most important aspects of the relevant PSS types/modifications in large German law firms, and looks at the typical needs of partners in these firms. That does not mean it is exhaustive or universally valid. Some law

firm partners might find other characteristics that are relevant for them. The PSS types and characteristics that *are* included are however of relevance - at least for the interviewees, and (as far as the literature presented suggests) for many other law firm partners. It is also possible to disagree for good reasons with the specific evaluations of the characteristics against the PSS types, summarised in each cell in Table 12 (with ++, + or -). The partner needs and the PSS characteristics presented should however be a good starting point for the next step: Matching what is needed with what is available. This shifts the focus from establishing the different building blocks of the framework to its practical application.

6.6 Matching the needs with the characteristics of the PSS

Q5: “Which PSS characteristics match best with my needs?”

The partner needs in 6.2 and 6.3 as well as the PSS types and characteristics in 6.4 to 6.5 describe the *generally* available options.

By contrast, the matching process between both is always *individual*. It is based on the needs and beliefs that an individual partner has – be it unconsciously or knowingly. These needs and beliefs determine which PSS characteristics are perceived as important. Every partner has a different set of needs and beliefs, and therefore will likely give different priorities to the PSS characteristics. Some partners might for example have a general desire to avoid quarrel with their peers (need for harmony, cf. p. 105), whereas others don't have a problem with powerful disputes. For the first group, the PSS characteristic “avoids active decision making and discussions” (cf. p. 121) is important, for the second not.

It is also possible that the same PSS characteristic is important for two partners, but for different reasons. Two partners might for example agree that they need a PSS that “encourages client referral and collaboration” (cf. p. 129). One partner might emphasise that this increases the motivation of all partners to invest time in acquisition, thereby increasing the client base of the firm, and eventually the long term success of the firm. The other partner might attach importance to the fairness aspect: that someone who charges less hours, but brings in more clients than others is equally treated.

For each person there exists a specific combination of needs (both contextual and individual) and matching characteristics. Taking the evaluation matrix from Table 12, every characteristic can now be judged against these needs. The next subsection gives an example how to do that.

6.7 Example: Operationalising the framework

Let us imagine a partner would answer the first two questions in the following way, using the topics described in 6.2 and 6.3:

1. What environment are we in?
25 partners, 1 large and one small office, several areas of law, diverse client base, rarely projects that require cooperation of several partners
2. What do I want as partner?
It's fair if people working more hours get more. Someone who is exceptionally good deserves additional financial appraisal. We should care for each other if someone is seriously ill. It needs careful individual decisions in such a case; you can't put that into a formula. It's better to avoid open fights about money in the partnership. I trust that my fellow partners are able to and do work as hard and good as I do. I do like to earn money, but I would prefer an intellectual challenging mandate to a more profitable one. It's important for me to have the freedom to make such a decision. The long term success of this firm is very important for me.

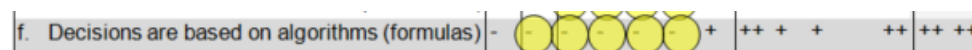
Every PSS characteristic can now be judged against these stated needs. For example, the answer “*It’s fair if people working more hours get more*” matches to “a. Rewards are based on performance”. Therefore, all PSS that *have* this characteristic (showing “++” or “+” in row a. in Table 12) are suited and can be marked (here with a yellow circle):

Scope of responsibility (what is rewarded)	
a. Rewards are based on performance	- - (+) (+) (+) (+) (++)(++)(++)(++)(++)(++)

The answer “*We should care for each other if someone is seriously ill.*” matches to “j. Provides individual financial security”:



The answer “*It needs careful individual decisions in such a case, you can’t put that into a formula.*” matches to “f. Decisions are based on algorithms (formulas)” – but negatively:



Going through all answers, and matching them with all the characteristics, might finally result in the evaluation exemplified in Table 13 below.

As next step, it is now possible to count how many ‘hits’ every PSS type has²⁸, indicating how much congruence exists between the stated needs of our fictive partner and the respective PSS type.

Based on the number of characteristics that match, the profit sharing systems can be sorted in descending order, and ideally, one is identified as the *most qualified* PSS for an individual partner. In this example, the result gives an impression which PSS’s might be suitable: A Modified Lockstep system, modified with bands (7 hits) and/or bonus schemes (6 hits) seems to have the highest match, even though some needs are not fully met with this PSS, e.g. the need for autonomy.

²⁸ Just counting the circles is just the simplest way. It would also be possible to weight ++ more than +, or to use a multiplier for those characteristics that are seen as more important than others. It should be noted that these are all qualitative decisions, and any quantitative result is only indicative and not of absolute value.

PSS type: Modification														
Characteristic	Equal Share	Pure Lockstep	Modified Lockstep: Gates	Modified Lockstep: Bands	Modified Lockstep: Point reduction	Modified Lockstep: Bonus schemes	Modified Lockstep: Phase out rules	Merit: turnover & acquisition	Merit: also management	Merit: Mid-term Smoothing	Merit: Forward impact only	Merit: Team performance	Eat what you kill: Shared costs	Eat what you kill: Strict cost centres
Scope of responsibility (what is rewarded)														
a. Rewards are based on performance	-	-	●	●	●	●		●	●	●	●	●	●	●
b. Rewards are based on seniority	-	++	++	+	+	+		-	-	-	-	-	-	-
c. Rewards allow for exceptional performance	-	-	-	●	-	●	-	●					●	●
Mode of decision making														
d. Decision-making and thereby discussions are avoided	●	●	-	-	-	-		●	-				●	●
e. Decisions are based on humans (committees)	-	-	●	●	●	●	-	-	+	-		-	+	-
f. Decisions are based on algorithms (formulas)	-	●	●	●	●	●	+	++	+	+		++	++	++
Advantages														
g. Is long term oriented	●	●	●	●	+		●	-		+	+		-	-
h. Encourages client referral and collaboration	++	++	+					+					-	-
i. Encourages non-billable/management work	+	+	+					-	++				-	-
j. Provides individual financial security	●	●	●	●	-			-	-	●	-	-	-	-
k. Encourages individual autonomy and diversity	-	-	-	-	-	-	-	●	●				●	●
Other														
l. Is based on detailed performance monitoring	-	-	+	+		+		++				++	++	++
m. Involves peer pressure to perform	++	++	++	+	+		-	-				+	-	-
n. Requires trust in fellow partner's efforts	●	●	●	●				-		●	●	●	-	-
o. Emphasizes extrinsic motivation by money	-	-			●	++		++	++		●	●	++	++
p. Considers (also) qualitative performance	++	++	++					-	+				-	-
q. Needs decisions about financial transparency			+	+	+	+								
Number of Hits (yellow circles)	4	5	6	7	4	4	1	4	2	3	3	3	4	4

Legend: ++ Yes (strongly), + Yes (moderately) – No

Table 13: Fictional example for the evaluation of one partner's needs

The framework presented is a multi-factor model and does not always result in a clear recommendation without ambiguity. In many cases, it is however suited to provide a clear steer towards one or the other system.

This evaluation of one partner's needs is difficult enough. Unfortunately, the resulting 'most suited' PSS is not always the same for all partners of one law firm; partners have to agree, to negotiate, to compromise. The overall resulting PSS will be some sort of common denominator of the needs of all the partners involved in the designing process.

The exercise of comparing the needs with the characteristics is not only helpful because it results in an indication about the best suited PSS for a specific partner; it might also enable and facilitate the *discussion between* partners, which characteristics they see as more important than others, and what specific needs they really have.

The next section looks at the specific challenges of this next step, balancing the *individual* needs to determine a *common* profit sharing system.

6.8 Choosing or changing the PSS

Q6: "Which PSS is best suited for us?"

Seldom are partners in a position where they can choose the best suited profit sharing system based on the own needs and the specific circumstances with a greenfield approach – in practice, that happens only when a new law firm is founded as a start-up, often as a spin-off of an established law firm (Günther 2012). Much more often, a profit sharing system already exists; this poses specific challenges.

Reasons for a change

Four situations typically trigger a partner discussion about the PSS:

- Spin-off or start-up (greenfield approach)
- Mergers of two (or more) law firms²⁹
- Changes of the environment in an existing firm
- Changes of the needs of the partners in an existing firm

²⁹ Only if of comparable size; if the firms are very different in size, the 'discussion' is usually very limited – the smaller unit is integrated in the larger and accepts their rules. The same applies if a single partner or small group changes from one firm to another.

In the first two occasions, it is mandatory to decide about the designated PSS, as the PSS is part of the contracts between the future partners. Spin-offs and mergers are carefully considered, active decisions (hopefully), and partners know that the future PSS is an important part of it. In these situations, there is enough dynamic to enforce a discussion about the PSS.

Whatever the basis of the other two occasions, change is often gradual. As discussed above, profit sharing systems are contingent to the circumstances. If the circumstances change, the PSS might have to be adjusted. And circumstances always change: law firms grow in number of people and/or revenue (or shrink); some areas of law depend on economic trends, so that revenue for some partners can be highly cyclical; and all partners simply advance in age each year. Transitions occur from one firm development phase to the other, e.g. from founder dominated firms to a partnership with different seniority levels. External change can even challenge the business model of a law firm as such (Greenwood et al. 2017). A system that matched perfectly some years ago might not make all partners happy any more now. As a result, 60% of the partners in Schoen's (2016) survey about German partners see a need for change, whereas (or because) more than 50% of the PSS's are untouched for more than 10 years. For the long-term success of a law firm partnership, it would therefore be wise to review the PSS at regular intervals, e.g. every 6 or 8 years. However, changing a PSS is often difficult.

Inertia

One problem with any change of an existing PSS is that *a majority of the partners* in the partnership has to agree on the change; typically, each partner in a partnership has one vote. Every partner is usually able to assess the estimated differences between the old way of sharing and any suggested new PSS. Given that money is a very relevant extrinsic motivator (cf. chapter 6.3), partners will likely easily accept a system that promises an increasing individual share, but be sceptical if their individual share is predicted to shrink. If more partners expect a *decrease* than an *increase* with a new system, approval is not very probable. The other way around however is also double-edged. If the partners who expect an *increase* outnumber those who cede, the latter group must have had above-average profit shares before (assuming the same profit

to distribute). These are often the most powerful and successful partners. A forced change against their interest might result in their departure, thereby lowering the average revenue per partner of the firm and eventually having a detrimental effect on everybody's absolute profit.

Another effect adds to the inertia of an already existing PSS. Typically, there is a reciprocal impact of needs and chosen PSS. Initially, the partner's needs shape the system. Once established, the system's characteristics then also work as a filter for future partner nominations. The existing system influences what needs are present and dominant in the partnership. For example, only partners who share specific values and beliefs come together in a Lockstep system (cf. chapter 4.1, p. 53). This reinforces the homogeneity; therefore fewer discrepancies between partners arise. A similar selection process can happen when (typically strong) partners decide to leave their existing partnership, when they feel insufficiently rewarded. With such a motivation, they will likely prefer a new firm with a Merit based system. Merit systems attract money-motivated partners.

Incremental changes are therefore much easier to implement than radical change (Wesemann and Kerr 2015). A radical change would for example be a change from Equal share or Pure lockstep to Merit based, whereas incremental changes only introduces some (new) modifications to Lockstep or alters the calculation rules in Merit. In the classification taxonomy (Figure 2, p. 24), an incremental change would alter the position only slightly, whereas a radical change is a large move vertically in the 'Scope of responsibility' or horizontally in the 'Mode of decision making' – or both.

Due to these obstacles to radical change, it requires an important change in the environment or the partner needs to trigger it. Either suddenly, such as a sharp revenue drop, or cumulated over years, so that a majority of partners sees major problems with the existing system, which (in many cases) hasn't been changed for decades (Schoen 2016).

Is there a general direction of change?

There is a tendency in the professional as well as academic literature to postulate a move away from Lockstep towards Merit based systems. Brock et al.

for example describe a replacement of Lockstep with Eat-what-you-kill systems and attribute that to “increasing profit motives and decreasing professional collegiality” (2007: 226); however, they concede that the underlying research is Anglo-American centric and that more research is necessary in European (and Asian) contexts. Major et al. also found that many of the London based law firms moved from Lockstep towards Merit based systems, “at least notionally”. They found a positive impact on earnings, retention and transparency, but a negative on collaboration (2017: 4). For Germany, Schoen (2016) shows an already increased share of Merit systems and also postulates further rising. There are also critical views like Lienemann, who states that High Performer rewards “open Pandora’s box” (2018b: 33) and can result in great dissatisfaction.

Wesemann and Kerr by contrast compared their 2015 international findings with 2013 figures and found that Lockstep seemed to decline before, but “appears to be returning to prominence everywhere except the United States and Canada” (2015: 1). Stender (2018) reports anecdotally from German partners that chose a Merit system but plan to switch back to the ‘inherently better’ Lockstep, when possible. A similar stance appeared in Oliver’s interview, who now has a Merit based system, but regrets bygone times with Lockstep (cf. quote p. 125). The interviewees in this study with Pure Lockstep systems also emphasised unanimously the satisfaction with their PSS. It is therefore questionable if there is a general shift towards Merit based systems, at least outside the US.

Interestingly, this discussion has been going on for decades. Morris and Pinnington report as early as 1998, that seniority based systems “have become under attack because of [their] poor incentive properties” (1998: 23), but found in their quantitative study that those systems persist and show that there are specific reasons for staying with them, rooted in the professional standards and values of lawyers, specifically the urge for cooperation. They criticize that other research, specifically American, assumes too much business rationality in decision-making – a gap that is explicitly addressed by this thesis.

6.9 Summary

In this chapter, a new framework was presented that integrates the findings in this study on partner needs with the characteristics of different profit sharing systems that are in use in large commercial law firms. A detailed discussion showed that partner needs depend on contextual factors like the number of partners and offices; the homogeneity of the partnership; cooperation needs of clients; and the age structure of the partnership. The individual partner needs depend on the individual fairness ideal; the need for transparency and procedural fairness; the trust level in people and in the system. Motivational factors that are important for the choice of the PSS (not the work as a lawyer as such) are primarily extrinsic, but intrinsic motivation factors do exist.

It was shown that profit sharing systems and, importantly, their modifications can be assessed by differentiating between specific characteristics. These characteristics use the taxonomy model presented in chapter 2.6 (see Figure 2, p. 24) and define the scope of responsibility (what is rewarded); the mode of decision making (committee decisions or formulas); specific advantages of each system, and some other properties like peer pressure and financial transparency, which are important when law firm partners have to decide which PSS matches best with their context and their needs. An example showed how the framework could be used in practice. It was discussed why changing an existing PSS is difficult and in which situations this change might still happen. Even though some authors postulate a trend away from seniority based towards Merit based systems, it was shown that such a trend is not undisputed and also not found in this study.

Chapter 7: Conclusion

This concluding chapter first summarises the topic, the research questions and the methodology, findings and discussion. It will then highlight the contributions to theory and to practice, and review limitations as well as suggestions for further research.

This study was induced by an observation of the author in his daily work with law firms: In law firm partnerships, where several partners (the owners of the firm) with equal rights have to agree on a way to allocate the profit of their collective work, very different ways of doing so exist. All partnerships strive to find a way that is perceived as fair, and that ensures ongoing motivation of all partners. Different groups of partners however use very different profit sharing systems, even though they seem to do comparable work in comparable law firms: Some split equally, some split based on seniority, some use complex formulas to consider several performance factors, and others just look at individual revenue. Obviously, these groups have different understandings of what exactly “a fair share” means, how far they can trust each other that everybody is putting in the same effort, and how they are best motivated. The relative importance of trust and fairness in turn depends significantly on what motivates each individual person.

The literature review showed that although substantial knowledge in the fields of fairness, trust and motivation in an organisational context exists, most of the academic research is based on hierarchical situations. There is little research that considers peer-to-peer situations, in which not only the results, but also the underlying rules are subject to discussion. Professional literature on the other hand does recognise the different profit sharing systems and discusses the respective advantages and disadvantages, but gives little advice how to decide which system is actually suited in a particular situation.

This resulted in three research questions: *What understanding of trust, fairness and motivation do law firm partners have? How does this understanding link to their specific profit sharing system? Which profit sharing systems suit best to specific given structures of law firms and the individual interests of their partners?*

To answer these questions, semi-structured interviews with 15 equity partners from 10 different large German commercial law firms were chosen as the best-suited data collection method. Thematic analysis was used to analyse the data, following the research protocol of Braun and Clarke (2014). A detailed and thorough description of the data collection and analysis procedures in the methodology chapter ensured trustworthiness, dependability and authenticity (Guba and Lincoln 1994). Comparison of the results with professional literature (surveys and magazine articles on the topic) was used to ensure confirmability.

Findings showed that unsurprisingly partners of top law firms, having received the same education and having successfully passed a year-long tournament, share some values and beliefs: They are all intrinsically motivated to work as a lawyer and partner, but also attach special importance to the extrinsic motivation of money, which is also seen as a proxy for power and reputation (this adds an intrinsic aspect to money). They consider distributional fairness as important for the stability of the firm, but recognise that fairness is always subjective. There are however also important differences that affect the choice of the PSS. Trust between partners is key to most systems, but was not mentioned at all in one system; financial transparency is seen as mandatory in all but one (other) system. It could be shown that different fairness ideals regarding distributive fairness match to the preference of specific PSS types. Each of the four main profit sharing systems that are in use in Germany (but also in the UK, the US and other European countries) is suited when certain external preconditions exist, and when the partners share specific beliefs and values. All have specific positive, but also negative consequences.

Based on these findings, a framework was developed that facilitates linking the beliefs and values of the partners on the one hand with the specific characteristics of the PSS on the other hand. This framework provides partners of law firms and potentially other professional service firms with a systematic approach to identify and discuss their needs and to identify the best-suited PSS for their specific situation.

7.1 Contribution to theory

This thesis contributes to academic knowledge in different ways. First, it looks at fairness, trust and motivation from a peer-to-peer-perspective, which is a rare perspective in the existing literature. It seems that that the often used differentiation between distributive, procedural, informational and interpersonal fairness (Greenberg and Cropanzano 1993) is also appropriate in this context, but that they manifest differently than in hierarchic situations. Whereas in hierarchical situations negotiation between employee and supervisor is typically restricted to distributional aspects, peers do also negotiate the procedures and aspects of informational fairness, notably the degree of transparency. In addition, procedural and distributional fairness aspects interact.

Second, it adds to the knowledge about professional service firms and their profit sharing systems by emphasising interpersonal aspects, going beyond the dominant economic perspective on profit sharing in the literature. The classification of profit sharing system archetypes is enhanced by introducing a second dimension. The usual classification distinguishes between individual oriented, performance based systems and group oriented, seniority based systems. The *mode of decision-making* is introduced as additional dimension to differentiate between formula based systems and human decision based systems. Further contribution lies in the systematic assessment of the available *modifications* of PSS archetypes, as described in subchapter 6.4 (p. 111). These modifications are very important in practice and might change the character of a system significantly, but are rarely considered in the academic literature yet.

Third, it provides valuable insights in how law firm partners think about fairness, trust and motivation. There is very limited availability of such information as lawyers hesitate to share them publically. The materials and information collected from the interviews could be used to inform further research on the firm.

7.2 Contribution to practice

The framework presented in chapter 6 provides practitioners in partnerships with a valuable tool that can be used to facilitate the discussion about how to

best share the profit of their joint work. The first contribution is that it highlights the importance of individual values and beliefs when discussing this topic, an aspect that is rarely openly present. Focussing the discussion on what the individual partners generally consider as fair and how they want to be motivated might help to avoid proxy discussions about 'mechanical' details of a PSS. The second contribution is the detailed identification of important characteristics of available PSS and specifically the typical modifications used. The entirety of characteristics identified in this study might not all be relevant for every partnership, and they are likely not exhaustive; they do however provide a good starting point to discuss the available options for profit sharing. Discussing single characteristics of each PSS separately and comparing them with the identified needs of the partners provides the opportunity to rank available PSS options according to the specific needs. Even if partners found themselves having other needs than those depicted in this study, and even if they evaluate the characteristics differently than presented here, this framework provides a good framework (sic) to approach this sensitive, but very important topic for every partnership.

This study is based on interviews from a selected group of interviewees, partners from large German law firms. Even though, the results might be transferable to other situations, as far as these have structural commonalities, notably the peer-to-peer situation. This is the case for other Professional Service Firms like management consultancies or tax auditors, insofar as they are organised in partnerships. In these firms, the partners also share a comparable education and professional ethos, and they typically went through a tournament situation to become a partner. They also have very high incomes compared to the national average, which likely influences fairness judgements and motivational issues.

On a more abstract level, the framework presented might also be of practical use in other situations where sharing between equals requires a commonly accepted system. An example for that is the situation when founders of a start-

up have to decide about the share allocation of their firm³⁰. Similar questions to those in a partnership arise: Should the shares be divided equally? Or based on some sort of contribution? Should 'senior' day-one-founders receive more than others who joined later on? In this situation, the procedure and questions presented in chapter 6 could be used to assess the needs of the founders and identify the best-suited share allocation system.

Several surveys of consultancies showed that the usage of the different PSS's is comparable in Germany and UK, but differs significantly between Europe and the US (Wesemann and Kerr 2012; Viney 2013; Wesemann and Kerr 2015; Schoen 2016). There is little data about the situation in European countries other than Germany and the UK. Some results of this study will likely be of use also in other countries, like the characteristics of the PSS's. General cultural differences between countries as well as differences in the educational systems for lawyers however will likely have an impact on beliefs and values of law firm partners in other countries, so that transferring the results from this study into other countries should be done with care.

7.3 Limitations

The methodological limitations of this research were discussed in chapter 3. Summarising, this comprised: challenges that result from access issues to elite interviewees; sampling; maintaining a critical distance while establishing trust; and meeting ethical standards such as protecting privacy and avoiding exploitation. The described steps that were taken to mitigate these challenges turned out to be suitable and effective.

As far as the results are concerned, the intention of qualitative research is not to deliver generalisable, but *transferable* results (Lincoln and Guba 1985). As addressed above, the relative small and focussed sample of interviewees limits the generalisability. The more the environment differs from that of this study, the more care should be taken when transferring results.

³⁰ Shares are an equivalent to future profits, both from regular activities and from selling the firm e.g. by going public; share distribution therefore represents profit distribution

The interviews were conducted at a specific point in time. Even so some of the interviewees reflected upon several years of partnership and some changes that occurred during that time, each interview represents a snapshot in time. Workplace environments are constantly changing, but specifically the ongoing digitisation might fundamentally challenge the business model of Professional Service Firms in the next years. With that, also the needs of partners will change. The same might occur if the current period of constant economic growth in Germany, which was mirrored in ever raising revenues and profits of the top 100 law firms, comes to an end after ten years. It is very likely that in a situation of a shrinking pie, the implications of fairness, trust and motivation related needs change considerably. The principal approach of the developed framework should however still be viable and useful.

Finally, the framework presented is not a verified theory, but the result of an exploratory study, with a focus on practical usefulness. Further research is necessary to test the framework, but also to enhance the applicability.

7.4 Suggestions for further research

Further research should consider several areas. First, overcoming some of the sampling related limitations mentioned above, it would be interesting to compare the findings of this study with other countries and/or other professional services such as management consultancies or architects. Given the Europe/US divide reported in the literature, specifically a comparison with US firms would be interesting. Since the interviewees in this study were all very successful partners in established, large and growing firms, it might be insightful to compare them with lawyers on the *threshold* to partnership: what needs and perceptions do *they* have? Are there changing work-life-balance interests when looking at younger lawyers, and does that influence the preferences for profit sharing?

Second, it is necessary to deepen the understanding of the observed differences between individual's beliefs and values, e.g. by using established methods from other fields like psychology to assess relevant individual perceptions and beliefs.

Third, it would be helpful to use quantitative methods to examine the relationship between the needs and beliefs and the specific PSS the partners opted for. For that purpose and to operationalise the process of identifying individual partner needs it would be beneficial to formulate a set of specific statements that can be used in a questionnaire or as basis of structured interviews like those presented as example statements in chapter 6.6 (p. 133). This is not only of academic interest, but could be used as a tool for partners who want to enhance their PSS discussions with a common and structured understanding of their respective needs.

References

- Abbott, A. (1988) *The system of professions: an essay on the division of expert labor*. Chicago: University of Chicago Press.
- Abbott, A. (2015) Professions, Sociology of. In Wrigt, J. D. (editor) *International Encyclopedia of the Social & Behavioral Sciences*. Vol. 19. Elsevier. 107-110.
- Ambrose, M. L. and Schminke, M. (2009) The Role of Overall Justice Judgments in Organizational Justice Research: A Test of Mediation. *Journal of Applied Psychology* 94 (2), 491-500.
- Anderson, M. J. (2001) *Partner Compensation Systems used in Professional Service Firms*. Edge International. http://www.edge.ai/wp-content/uploads/2014/04/compensation.partner_compensation_systems.pdf Accessed 3.2.2016.
- Armstrong, M. (2002) *Employee reward*. 3rd edition. London: Chartered Institute of Personnel and Development.
- Balthasar, D. (2018) Gewinnbeteiligung von Anwälten: In Kanzleien tobt ein Kampf der Kulturen um die Vergütung. *Handelsblatt*, <https://www.handelsblatt.com/unternehmen/dienstleister/gewinnbeteiligung-von-anwaelten-in-kanzleien-tobt-ein-kampf-der-kulturen-um-die-verguetung/22793746.html> Accessed 12.1.2019
- Bartling, B. and von Siemens, F. A. (2010) Equal sharing rules in partnerships. *Journal of Institutional and Theoretical Economics JITE* 166 (2), 299-320.
- Becerra, M. and Gupta, A. K. (2003) Perceived Trustworthiness Within the Organization: The Moderating Impact of Communication Frequency on Trustor and Trustee Effects. *Organization Science* 14 (1), 32-44.
- Bediou, B. and Scherer, K. R. (2014) Egocentric Fairness Perception: Emotional Reactions and Individual Differences in Overt Responses. *PLoS ONE* 9 (2), e88432.
- Bies, R. J. and Moag, J. (1986) Interactional Justice: Communication criteria of fairness. In Lewicki, R. J., Sheppard, B. H., and Bazerman, M. H. (editors) *Research on Negotiation in Organizations*. JAI Press. 43-55.

- Boyatzis, R. E. (1998) *Transforming qualitative information: thematic analysis and code development*. London: Sage.
- Braun, V. and Clarke, V. (2006) Using thematic analysis in psychology. *Qualitative Research in Psychology* 3 (2), 77-101.
- Braun, V. and Clarke, V. (2013) *Successful Qualitative Research*. London: SAGE.
- Braun, V. and Clarke, V. (2014) What can “thematic analysis” offer health and wellbeing researchers? *International Journal of Qualitative Studies on Health and Well-Being* 9, 1-2.
- Brock, D. M. (2006) The changing professional organization: A review of competing archetypes. *International Journal of Management Reviews* 8 (3), 157-174.
- Brock, D. M., Leblebici, H. and Muzio, D. (2014) Understanding professionals and their workplaces: The mission of the Journal of Professions and Organization. *Journal of Professions and Organization* 1 (1), 1-15.
- Brock, D. M., Powell, M. J. and Hinings, C. R. (2007) Archetypal Change and the Professional Service Firm. *Research in Organizational Change and Development*. Vol. 16. Bingley: Emerald Group Publishing Limited. 221-251.
- Bryman, A. and Bell, E. (2015) *Business research methods*. 4th edition. Oxford: Oxford University Press.
- Byrne, Z. S. and Cropanzano, R. (2001) The history of organizational justice: The founders speak. In Cropanzano, R. (editor) *Justice in the workplace: From theory to practice*. Vol. 2. London: Lawrence Erlbaum Associates. 3-26.
- Cappelen, A. W., Hole, A. D., Sørensen, E. Ø. and Tungodden, B. (2007) The Pluralism of Fairness Ideals: An Experimental Approach. *The American Economic Review* 97 (3), 818-827.
- Cappelen, A. W., Sørensen, E. Ø. and Tungodden, B. (2010) Responsibility for what? Fairness and individual responsibility. *European Economic Review* 54 (3), 429-441.
- Cleaver, I. (2014) *How members of high identity demand organizations perform identity work relating to organization membership*. Unpublished Doctoral thesis: City University London.

- Colquitt, J. A. (2001) On the dimensionality of organizational justice: A construct validation of a measure. *Journal of Applied Psychology* 86 (3), 386-400.
- Colquitt, J. A. and Rodell, J. B. (2011) Justice, trust, and trustworthiness: a longitudinal analysis integrating three theoretical perspectives. *Academy of Management journal* 54 (6), 1183-1206.
- Creswell, J. W. (2013a) *Qualitative Inquiry & Research Design: Choosing Among Five Approaches*. 3rd edition. London: Sage.
- Creswell, J. W. (2013b) *Research design: Qualitative, quantitative, and mixed methods approaches*. London: Sage.
- Cropanzano, R. and Ambrose, M. L. (2015a) Organizational Justice: Where we have been and where we are going. In Cropanzano, R. and Ambrose, M. L. (editors) *The Oxford Handbook of Justice in the Workplace*. Oxford: Oxford University Press. 3-13.
- Cropanzano, R. and Ambrose, M. L. (2015b) *The Oxford Handbook of Justice in the Workplace*. Oxford: Oxford University Press.
- Cropanzano, R. and Mitchell, M. S. (2005) Social Exchange Theory: An Interdisciplinary Review. *Journal of Management* 31 (6), 874-900.
- Cropanzano, R., Prehar, C. A. and Chen, P. Y. (2002) Using Social Exchange Theory to Distinguish Procedural from Interactional Justice. *Group & Organization Management* 27 (3), 324-351.
- Crotty, M. (1998) *The foundations of social research: meaning and perspective in the research process*. London: SAGE.
- Dana, J., Weber, R. A. and Kuang, J. X. (2007) Exploiting moral wiggle room: experiments demonstrating an illusory preference for fairness. *Economic Theory* 33 (1), 67-80.
- Deci, E. L. and Ryan, R. M. (1985) *Intrinsic motivation and self-determination in human behaviour*. New York: Plenum Press.
- Deci, E. L. and Ryan, R. M. (2000) The "What" and "Why" of Goal Pursuits: Human Needs and the Self-Determination of Behavior. *Psychological Inquiry* 11 (4), 227-268.
- DiCicco-Bloom, B. and Crabtree, B. F. (2006) The qualitative research interview. *Medical education* 40 (4), 314-321.

- Dresing, T. and Pehl, T. (2012) *Praxisbuch Transkription: Regelsysteme, Software und Anleitungen für qualitative ForscherInnen*. Berlin: Eigenverlag.
- Drew, H. (2014) Overcoming Barriers: Qualitative Interviews With German Elites. *Electronic Journal of Business Research Methods* 12 (2), 77.
- Elkjaer, B. and Simpson, B. (2011) Pragmatism: A lived and living philosophy. What can it offer to contemporary organization theory? *Philosophy and Organization Theory*. Vol. 32. Bingley: Emerald Group Publishing Limited. 55-84.
- Empson, L. (2013) *Who's in charge? Exploring leadership dynamics in professional service firms*. London: Cass Business School.
- Empson, L. (2018) Elite interviewing in professional organizations. *Journal of Professions and Organization* 5 (1), 58-69.
- Empson, L. and Chapman, C. (2006) Partnership versus Corporation: Implications of Alternative Forms of Governance in Professional Service Firms. *Professional Service Firms*. Vol. 24. Bingley: Emerald Group Publishing Limited. 139-170.
- Empson, L., Cleaver, I. and Allen, J. (2013) Managing partners and management professionals: institutional work dyads in professional partnerships. *Journal of Management Studies* 50 (5), 808-844.
- Empson, L., Muzio, D., Broschak, J. P. and Hinings, C. R. (2015a) *The Oxford Handbook of Professional Service Firms*. Oxford: Oxford University Press.
- Empson, L., Muzio, D., Broschak, J. P. and Hinings, C. R. (2015b) Researching professional service firms: An introduction and overview. In Empson, L., Muzio, D., Broschak, J. P., and Hinings, C. R. (editors) *The Oxford Handbook of Professional Service Firms*. Oxford: Oxford University Press. 1-22.
- Eurostat (2019) *Statistics database. Annual detailed enterprise statistics for services*.
http://ec.europa.eu/eurostat/product?code=sbs_na_1a_se_r2&language=en&mode=view Accessed 12.01.2019.
- Faulconbridge, J. and Muzio, D. (2008) Organizational professionalism in globalizing law firms. *Work, Employment & Society* 22 (1), 7-25.

- Faulconbridge, J. R. and Muzio, D. (2009) The financialization of large law firms: situated discourses and practices of reorganization. *Journal of Economic Geography* 9 (5), 641-661.
- Fehr, E. and Schmidt, K. M. (1999) A Theory of Fairness, Competition, and Cooperation. *Quarterly Journal of Economics* 114 (3), 817-868.
- Finlay, L. (2008) A Dance Between the Reduction and Reflexivity: Explicating the "Phenomenological Psychological Attitude". *Journal of Phenomenological Psychology* 39 (1), 1-32.
- Fu, N., Flood, P. C., Bosak, J., Rousseau, D. M., Morris, T. and O'Regan, P. (2015) High-Performance Work Systems in Professional Service Firms: Examining the Practices-Resources-Uses-Performance Linkage: HPWS in PSFs. *Human Resource Management*, 1-24.
- Fulmer, C. A. and Gelfand, M. J. (2012) At What Level (and in Whom) We Trust: Trust Across Multiple Organizational Levels. *Journal of Management* 38 (4), 1167-1230.
- Gagné, M. and Deci, E. L. (2014) The History of Self-Determination Theory in Psychology and Management. In Gagné, M. (editor) *The Oxford Handbook of Work Engagement, Motivation, and Self-Determination Theory*. Oxford: Oxford University Press. 1-9.
- Galanter, M. and Henderson, W. (2008) The Elastic Tournament: A Second Transformation of the Big Law Firm. *Stanford Law Review* 60 (6), 1867-1929.
- Gantner, A. and Kerschbamer, R. (2016) Fairness and efficiency in a subjective claims problem. *Journal of Economic Behavior & Organization* 131, Part A, 21-36.
- Gardner, H. K. and Valentine, M. (2014) Instrumental Collaboration: Why Autonomous Professionals Collaborate and How They Benefit. *Academy of Management Proceedings* 2014 (1), 11880-.
- German, H., Fortin, M. and Read, D. (2016) Justice Judgments: Individual Self-Insight and Between-and Within-Person Consistency. *Academy of Management Discoveries* 2 (1), 33-50.
- Gilgun, J. F. (2014) Writing Up Qualitative Research. In Leavy, P. (editor) *The Oxford Handbook of Qualitative Research*. Vol. 1. Oxford: Oxford University Press. 658-676.

- Gilson, R. J. and Mnookin, R. H. (1985) Sharing among the Human Capitalists: An Economic Inquiry into the Corporate Law Firm and How Partners Split Profits. *Stanford Law Review* 37 (2), 313-392.
- Gioia, D. A., Corley, K. G. and Hamilton, A. L. (2013) Seeking Qualitative Rigor in Inductive Research: Notes on the Gioia Methodology. *Organizational Research Methods* 16 (1), 15-31.
- Giorgi, A. (1997) The Theory, Practice, and Evaluation of the Phenomenological Method as a Qualitative Research Procedure. *Journal of Phenomenological Psychology* 28 (2), 235-260.
- Goldman, B. (2015) Organizational Justice and Legal Justice: How Are They Related? In Cropanzano, R. and Ambrose, M. L. (editors) *The Oxford Handbook of Justice in the Workplace*. Oxford: Oxford University Press. 257-271.
- Goldman, B. and Cropanzano, R. (2015) "Justice" and "fairness" are not the same thing. *Journal of Organizational Behavior* 36 (2), 313-318.
- Greenberg, J. (1987) A Taxonomy of Organizational Justice Theories. *Academy of Management Review* 12 (1), 9.
- Greenberg, J. and Cropanzano, R. (1993) The social side of fairness: Interpersonal and informational classes of organizational justice. In Cropanzano, R. (editor) *Justice in the workplace: Approaching fairness in human resource management*. Hillsdale, NJ: Lawrence Erlbaum Associates.
- Greenwood, R., Deephouse, D. L. and Li, S. X. (2007) Ownership and Performance of Professional Service Firms. *Organization Studies* 28 (2), 219-238.
- Greenwood, R. and Empson, L. (2003) The professional partnership: relic or exemplary form of governance? *Organization studies* 24 (6), 909-933.
- Greenwood, R., Hinings, C. R. and Brown, J. (1990) "P2-Form" Strategic Management: Corporate Practices in Professional Partnerships. *The Academy of Management Journal* 33 (4), 725-755.
- Greenwood, R., Hinings, C. R. and Prakash, R. (2017) 25 years of the professional partnership (P2) form: time to foreground its social purpose and herald the P3? *Journal of Professions and Organization* 4 (2), 112-122.

- Greetham, B. (2006) *Philosophy*. New York: Palgrave Macmillan.
- Guba, E. G. and Lincoln, Y. S. (1994) Competing paradigms in qualitative research. In Denzin, N. K. and Lincoln, Y. S. (editors) *Handbook of qualitative research*. Vol. 2. Thousand Oaks: Sage. 105-117.
- Günther, A. B. (2012) *Entrepreneurial Strategies of Professional Service Firms-An Analysis of Commercial Law Firm Spin-offs in Germany*. Köln: Kölner Wissenschaftsverlag.
- Gupta, N. and Shaw, J. D. (1998) Let the evidence speak: financial incentives are effective!! *Compensation & Benefits Review* 30 (2), 26-32.
- Harlacher, D. and Reihlen, M. (2014) Governance of professional service firms: a configurational approach. *Business Research* 7 (1), 125-160.
- Jarzabkowski, P., Mohrman, S. A. and Scherer, A. G. (2010) Organization studies as applied science: The generation and use of academic knowledge about organizations introduction to the special issue. *Organization Studies* 31 (9-10), 1189-1207.
- Jordan, A. M. (1952) Intrinsic versus Extrinsic Motivation in Learning. *The High School Journal* 36 (3), 76-83.
- JUVE (2017) TOP 100 Kanzleiumsätze 2016/2017. *JUVE Rechtsmarkt* 10/17, 64-129.
- JUVE (2018) TOP 100 Kanzleiumsätze 2017/2018. *JUVE Rechtsmarkt* 10/18, 51-115.
- Käab, O. and Oberlander, W. (2005) Kooperationsformen bei Rechtsanwälten. *BRAK Mitteilungen* 2/2005, 55-60.
- Kaiser, S., Kozica, A. M. F., Swart, J. and Werr, A. (2015) Human Resource Management in Professional Service Firms: Learning from a framework for research and practice. *Zeitschrift für Personalforschung* (May 2015), 78-101.
- Kaiser, S. and Ringlstetter, M. J. (2011) *Strategic management of professional service firms: Theory and practice*. Berlin: Springer.
- Kandel, E. and Lazear, E. P. (1992) Peer Pressure and Partnerships. *Journal of Political Economy* 100 (4), 801-817.

- Karlan, D. S. (2005) Using Experimental Economics to Measure Social Capital and Predict Financial Decisions. *The American Economic Review* 95 (5), 1688-1699.
- Kay, F. M. and Hagan, J. (2003) Building Trust: Social Capital, Distributive Justice, and Loyalty to the Firm. *Law & Social Inquiry* 28 (2), 483-519.
- Konow, J. (2000) Fair Shares: Accountability and Cognitive Dissonance in Allocation Decisions. *The American Economic Review* 90 (4), 1072-1091.
- Kramer, R. M. (1999) Trust and distrust in organizations: emerging perspectives, enduring questions. *Annual review of psychology* 50 (1), 569-598.
- Kukathas, C. and Pettit, P. (1990) *Rawls: a theory of justice and its critics*. Cambridge: Polity Press.
- Legalease (2019) *The Legal 500 Rankings: Europe*.
<https://www.legal500.com/assets/pages/EMEA/europe.html> Accessed 12.1.2019.
- Levin, J. and Tadelis, S. (2005) Profit Sharing and the Role of Professional Partnerships. *Quarterly Journal of Economics* 120 (1), 131-171.
- Lewicki, R. and Benedict Bunker, B. (1996) Developing and Maintaining Trust in Working Relations. In Kramer, R. M. and Tyler, T. R. (editors) *Trust in organizations: Frontiers of theory and research*. SAGE. 114-139.
- Lewicki, R. J., Tomlinson, E. C. and Gillespie, N. (2006) Models of Interpersonal Trust Development: Theoretical Approaches, Empirical Evidence, and Future Directions. *Journal of Management* 32 (6), 991-1022.
- Li, A. and Cropanzano, R. (2009) Fairness at the Group Level: Justice Climate and Intraunit Justice Climate. *Journal of Management* 35 (3), 564-599.
- Lienemann, E. (2018a) Interview Alexander Thau. *JUVE Rechtmarkt* 10/18, 149-150.
- Lienemann, E. (2018b) Überzuckert. *JUVE Rechtmarkt* 10/18, 30-34.
- Lincoln, Y. S. and Guba, E. G. (1985) *Naturalistic inquiry*. London: Sage.
- Locke, K. D. (2000) *Grounded theory in management research*. Sage.

- Lowe, J. A. (2014) *Partner Compensation Survey*. Washington, D.C.: Major, Lindsey & Africa LLC.
- Lowe, J. A. (2016) *Partner Compensation Survey 2016*. Washington, D.C.: Major, Lindsey & Africa LLC.
- Major, Lindsey and Africa (2017) *London Partner Compensation Survey*. Washington, D.C.: Major, Lindsey & Africa LLC.
- MAXQDA (2018) *Software for qualitative data analysis*. Berlin, VERBI Software–Consult-Sozialforschung GmbH.
- Mayer, R. C., Davis, J. H. and Schoorman, F. D. (1995) An integrative model of organizational trust. *The Academy of Management Review* 20 (3), 709.
- McChesney, F. S. (1982) Team Production, Monitoring, and Profit Sharing in Law Firms: An Alternative Hypothesis. *Journal of Legal Studies* 11 (2), 379-393.
- Metcalfe, M. (2008) Pragmatic Inquiry. *The Journal of the Operational Research Society* 59 (8), 1091-1099.
- Mikecz, R. (2012) Interviewing Elites: Addressing Methodological Issues. *Qualitative Inquiry* 18 (6), 482-493.
- Miner, J. B. (2005) *Organizational Behavior 1 : Essential Theories of Motivation and Leadership*. Armonk: M.E. Sharpe, Inc.
- Mintzberg, H. (1979) *The structuring of organizations: a synthesis of the research*. Englewood Cliffs, N.J: Prentice Hall.
- Morris, T. and Pinnington, A. (1998) Patterns of Profit-sharing in Professional Firms. *British Journal of Management* 9 (1), 23-39.
- Nikolova, N., Möllering, G. and Reihlen, M. (2015) Trusting as a 'Leap of Faith': Trust-building practices in client-consultant relationships. *Scandinavian Journal of Management* 31 (2), 232-245.
- Nordenflycht, A. v. (2010) What is a professional service firm? Toward a theory and taxonomy of knowledge-intensive firms. *Academy of Management review* 35 (1), 155-175.
- Office for National Statistics (2018) *Top 100 Baby Names Historical Data*. <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/datasets/babynamesenglandandwalestop100babynameshistoricaldata> Accessed 13.7.2018.

- Robinson, O. C. (2014) Sampling in Interview-Based Qualitative Research: A Theoretical and Practical Guide. *Qualitative Research in Psychology* 11 (1), 25-41.
- Robson, C. (2002) *Real world research: a resource for social scientists and practitioner-researchers*. 2nd edition. Oxford: Blackwell.
- Rodriguez-Lara, I. and Moreno-Garrido, L. (2012) Self-interest and fairness: self-serving choices of justice principles. *Experimental Economics* 15 (1), 158-175.
- Rousseau, D. M., Sitkin, S. B., Burt, R. S. and Camerer, C. (1998) Not so different after all: a cross-discipline view of trust. *Academy of Management review* 23 (3), 393-404.
- Rumens, N. and Kelemen, M. (2013) American pragmatism and organization studies: concepts, themes and possibilities. In Kelemen, M. and Rumens, N. (editors) *American pragmatism and organization: issues and controversies*. Farnham, England: Gower. 3-24.
- Saldaña, J. (2014) Coding and Analysis Strategies. In Leavy, P. (editor) *The Oxford Handbook of Qualitative Research*. Vol. 1. Oxford: Oxford University Press. 581-605.
- Schmieder, C. (2014) *Software comparison*.
<https://website.education.wisc.edu/qdatools/wp-content/uploads/2014/12/Software-Comparison.pdf> Accessed 5.2.2016.
- Schoen, R. (2016) *Gewinnverteilungssysteme in Kanzleien*. Düsseldorf: Schoen + Company.
- Shaw, J. D. and Gupta, N. (2015) Let the evidence speak again! Financial incentives are more effective than we thought. *Human Resource Management Journal* 25 (3), 281-293.
- Shields, P. M., Whetsell, T. A. and Hanks, E. K. (2013) Pragmatism and Public Administration: Looking Back, Looking Forward. In Kelemen, M. and Rumens, N. (editors) *American pragmatism and organization: issues and controversies*. Farnham, England: Gower. 115-130.
- Silver, C. and Lewins, A. (2014) *Using Software in Qualitative Research: A Step-by-Step Guide*. Second edition. London: Sage.

- Smets, M., Aristidou, A. and Whittington, R. (2017a) Towards a practice-driven institutionalism. In Greenwood, R., Oliver, C., Lawrence, T. B., and Meyer, R. (editors) *The SAGE Handbook of Organizational Institutionalism*. 2nd edition. London: Sage. 384-411.
- Smets, M., Morris, T., von Nordenflycht, A. and Brock, D. M. (2017b) 25 years since 'P2': Taking stock and charting the future of professional firms. *Journal of Professions and Organization* 4 (2), 91-111.
- Stecklbach, L. (2018) Die Verteilungsfrage. *JUVE Rechtsmarkt* 10/18, 153-156.
- Stender, C. (2018) Kontrolle ist gut, Vertrauen ist besser. *JUVE Rechtsmarkt* 10/18, 133-138.
- Strauss, A. L. and Corbin, J. M. (1990) *Basics of qualitative research: techniques and procedures for developing grounded theory*. Thousand Oaks, CA: Sage.
- Ströder, M. (2018) Aus der Zeit gefallen. *JUVE Rechtsmarkt* 10/18, 125-131.
- Suddaby, R. (2006) From the Editors: What Grounded Theory is not. *Academy of Management Journal* 49, 633-642.
- Teddlie, C. and Tashakkori, A. (2009) *Foundations of mixed methods research: Integrating quantitative and qualitative approaches in the social and behavioral sciences*. London: SAGE.
- Traianou, A. and Zeller-Berkman, S. M. (2014) The Centrality of Ethics in Qualitative Research. In Leavy, P. (editor) *The Oxford Handbook of Qualitative Research*. Vol. 1. Oxford: Oxford University Press. 62-77.
- Ubeda, P. (2014) The consistency of fairness rules: An experimental study. *Journal of Economic Psychology* 41, 88-100.
- van der Werff, L. and Buckley, F. (2017) Getting to Know You: A Longitudinal Examination of Trust Cues and Trust Development During Socialization. *Journal of Management* 43 (3), 742-770.
- Viney, B. (2013) *Partner pay and performance in law firms*. London: BDO. http://www.bdo.co.uk/__data/assets/pdf_file/0016/181303/Partner_Pay_and_Performance_in_Law_Firms.pdf Accessed 3.2.2016.
- Wesemann, E. and Kerr, N. J. (2012) *2012 Global Partner Compensation System Survey*. Edge International. <http://www.edge.ai/wp->

content/uploads/2015/03/Edge-Compensation-Survey_20150302.pdf

Accessed 3.2.2016.

Wesemann, E. and Kerr, N. J. (2015) *2015 Global Partner Compensation System Survey*. Edge International. http://www.edge.ai/wp-content/uploads/2015/03/Edge-Compensation-Survey_20150302.pdf
Accessed 3.2.2016.

Wiegmann, T. (2016 unpublished) On law firm partner's perception of their profit sharing system. DBA Module 3 paper. University of Bradford.

Wiegmann, T. (2017 unpublished) The role of trust and fairness when law firm partners share profits. DBA Module 7 paper. University of Bradford.

Zapata-Phelan, C. P., Colquitt, J. A., Scott, B. A. and Livingston, B. (2009) Procedural justice, interactional justice, and task performance: The mediating role of intrinsic motivation. *Organizational Behavior and Human Decision Processes* 108 (1), 93-105.

Appendix I: Information sheet

Informationsblatt für Forschungsteilnehmer

Sie sind eingeladen, als Teilnehmer an der Promotionsstudie von Thomas Wiegmann teilzunehmen.

Was ist der Zweck dieser Studie?

Anwaltskanzleien nutzen sehr verschiedene Methoden der Gewinnverteilung, von gleichmäßiger Pro-Kopf-Verteilung über *Lockstep* und *Merit-based* zu rein leistungsbasierten *Eat-what-you-kill*-Systemen, und vielen Kombinationen daraus. Marktstudien zeigen allerdings, dass ein großer Teil der Anwälte in großen wirtschaftsberatenden Kanzleien mit dem vorhandenen System nicht zufrieden ist. Es gibt zudem wenig wissenschaftliche Erkenntnisse, warum genau sich Partner von Sozietäten für ein bestimmtes System entscheiden, und nicht ein anderes wählen.

Diese Studie zielt darauf, wahrgenommene Vor- und Nachteile der jeweiligen Systeme und die individuellen Gründe und Umstände für die Wahl des jeweiligen Systems zu verstehen. Ziel ist insbesondere, die Bedeutung von Emotionen und deren Wechselwirkung mit ökonomischen Aspekten aus der Perspektive der einzelnen Partner zu verstehen.

Warum wurde ich ausgewählt?

Sie sind eingeladen, an dieser Studie teilzunehmen, weil Sie ein Partner bzw. eine Partnerin einer Anwaltskanzlei sind, die in der JUVE TOP 100-Liste aufgeführt ist.

Was umfasst meine Mitwirkung?

Ihre Mitwirkung besteht in einem Interview, das bei Ihnen in der Kanzlei oder an einem anderen Platz Ihrer Wahl stattfinden kann. Das Interview besteht aus einer Reihe offener Fragen und dauert etwa 45-60 Minuten. Es wird (mit Ihrer Erlaubnis) mit einem Aufnahmegerät aufgezeichnet, abgeschrieben und für die Forschungsarbeit ausgewertet. Wenn Sie möchten, erhalten Sie eine wörtliche Abschrift des Interviews. Zudem können Sie auf Wunsch nach Abschluss der Forschungsarbeit eine Zusammenfassung der Ergebnisse erhalten.

Anonymität und Vertraulichkeit

Die persönlichen Daten aller Teilnehmer werden vertraulich behandelt und anonymisiert. Dazu werden alle Namen von Personen und Kanzleien bereits in den Abschriften durch fiktive Namen oder Nummern ersetzt. Teile der Abschriften können für die Promotion benutzt und so ggf. auch publiziert werden. Dabei wird allerdings kein Teilnehmer oder Kanzlei identifizierbar genannt. Spezifische Beschreibungen, die eine indirekte Identifikation ermöglichen würden, werden entfernt oder geändert.

Datenaufbewahrung und -vernichtung

Die gesamten Forschungsdaten inklusive der Audioaufzeichnung werden ausschließlich auf verschlüsselten, kennwortgeschützten Geräten aufbewahrt. Die Audiodateien werden vier Wochen nach Graduierung gelöscht, die Abschriften und abgeleitete Forschungsdaten werden für 10 Jahre aufbewahrt und danach gelöscht.

Wer hat Zugriff auf die gesammelten Daten?

Alle Forschungsdaten werden ausschließlich durch den Forschenden ausgewertet, und ggf. von dessen Supervisoren (Dozenten an der University of Bradford, Faculty of Management and Law) überprüft. Die Audioaufnahmen werden von einem professionellen Transkriptionsservice verschriftlicht, der eine spezifische Vertraulichkeitsvereinbarung unterzeichnet hat, inklusive der Verpflichtung, verarbeitete Audiodateien und Abschriften unmittelbar nach Bearbeitung und Übergabe zu löschen und bis dahin nur auf verschlüsselten, sicheren Systemen zu bearbeiten.

Kann ich meine Zustimmung auch wieder zurückziehen?

Sie können das Interview jederzeit beenden oder entscheiden, dass Ihre Aussagen (oder Teile davon) nicht verwendet werden sollen. Dies ist auch noch bis zu 14 Tage nach dem Interview möglich. Wenn Sie Ihre Zustimmung zurückziehen, werden sämtliche Aufzeichnungen unmittelbar vernichtet.

Ist dieses Vorgehen üblich und angemessen?

Das beschriebene Vorgehen erfüllt die hohen englischen Forschungs- und Ethikstandards. Diese Studie und die verwendete Methodik wurde von der zuständigen Ethikkommission der University of Bradford, Chair of the Humanities, Social & Health Sciences Research Panel geprüft und am 29. August 2017 genehmigt.

Appendix II: Consent form



UNIVERSITY of
BRADFORD

Faculty of
Management & Law



CONSENT FORM

Project title: Aspects of law firm partner's profit sharing systems

Researcher Contact Details: Thomas Wiegmann, t.wiegmann@bradford.ac.uk, Tel +49 170 2026603

Thank you very much for agreeing to take part in an interview for my research. The purpose of this form is to make sure that you are happy to take part in the research and that you know what is involved.

Please state 'Yes' or 'No' to the following statements:

Please circle as appropriate

- | | | |
|--|-----|----|
| 1. I have been informed about the purpose for which my interview will be used if I give my consent and I have been given the opportunity to ask questions. | YES | NO |
| 2. I give my consent for the interview to be audio-recorded | YES | NO |
| 3. I understand that I can withdraw my consent at any stage up to two weeks after the interview, without giving a reason why, leading to my data not being used in the research. | YES | NO |
| 4. I understand that any information that would identify me will be removed from project data. | YES | NO |
| 5. I am aware that my anonymised data will be kept for up to ten years, held securely on an AdvoService computer for audit purposes | YES | NO |
| 6. I give my consent for anonymised extracts from my interview to be used in publications reporting on the findings from the research | YES | NO |

I give my consent for my interview data to be used as described.

Interviewee:

Signed Date:

Name in BLOCK CAPITALS.....

Interviewer:

Signed.....

Name in BLOCK CAPITALS...THOMAS WIEGMANN

Ethics approval for this research has been granted by Chair of the Humanities, Social & Health Sciences Research Panel at the University of Bradford on 29th August 2017.



University of Bradford
Emm Lane
Bradford
West Yorkshire
BD9 4JL, UK



+44 (0) 1274 234393



management@bradford.ac.uk



www.bradford.ac.uk/management



INVESTORS
IN PEOPLE



University of Bradford:
Proud to be a
Fairtrade University
www.fairtrade.org.uk

Appendix III: Interview guide

RQ: What understanding of trust, fairness and motivation do law firm partners have, and how does this understanding link to their specific profit sharing system (PSS)?

This study aims to understand the perceived advantages and disadvantages of each system and the individual reasons and circumstances for the choice of each system. In particular, the aim is to understand the significance of emotions and their interaction with economic aspects from the perspective of the individual partners.

Flight mode

Introduction: Thank you. Restate aim: Thesis

Anonymous interview, names and specific information will be substituted.

Would like to record, OK?

Explanation and signing of consent form

Switch on recording

Start: **Tell me something about your profit sharing system**

What is the concept, the basic idea of your profit sharing system?

What do you think about it (helpful? Discriminating? Frustrating?)

Does your PSS have a steering effect? In which direction?

Is there a guiding principle would you say?

(Influences you to work in a specific way? Motivates? Demotivates?)

Do you have an individual influence on your PSS or is it a 'partnership' decision?

(What do you think of that?)

Can you give me an example of your influence?)

If you were in sole charge of the system, what, if anything, would you change?

(Make it fairer? More motivating? Better in which sense?)

What are strengths of your profit sharing system?

What are weaknesses of your profit sharing system?

Does your PSS have an influence on your collaboration with other partners? How?

(How would you describe your relationship to other partners?)

End: Did we miss anything you consider important?

Is there anything you would like to tell me about that we haven't touched on?

Do you have any questions for me?

Switch off recording **SAVE !!!**

Thank you. Will transcribe now. Would you like a copy of the transcript to check?

May I contact you in case of queries?

Appendix IV: Example transcripts

(Not included in digital version for confidentiality reasons)